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MAGAZINE

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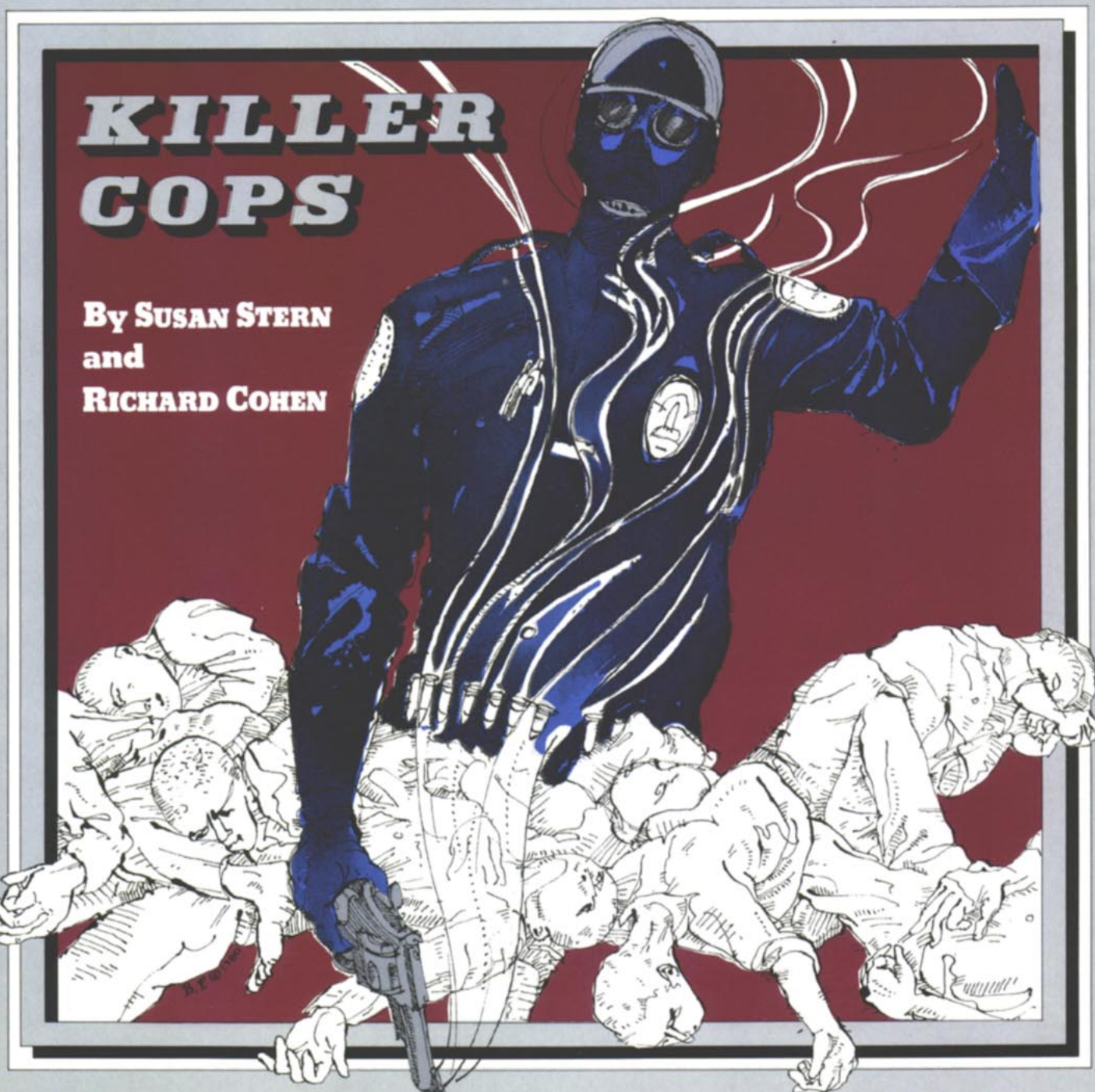

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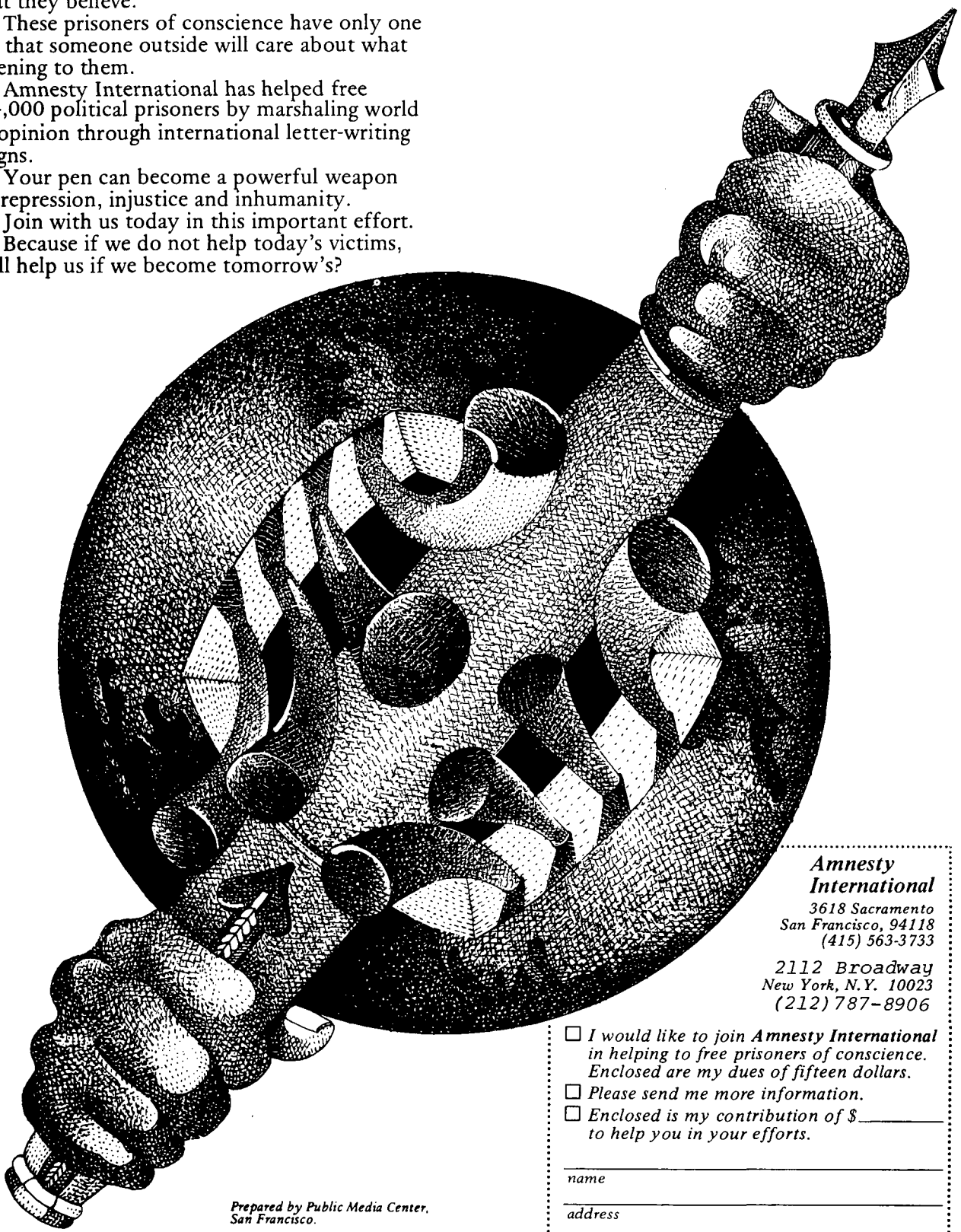

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NOVEMBER 10, 1980

Killer Cops

SUSAN STERN & RICHARD COHEN **p. 10**

Since 1967, American police have killed an average of nearly two citizens a day. Cornelius Tatum was lucky; the six Los Angeles undercover cops who shot him down at the Power gas station only managed to paralyze him for life. And the case against his assailants actually went to trial. . . .

Central American Powder Keg

ANNE NELSON **p. 18**

Six hundred Salvadoreans died last May at the Rio Sumpul—a massacre in which Guatemala, Honduras, Venezuela, Israel, and the United States played supporting roles. It looks like things could get a lot worse in this latest international battle zone.

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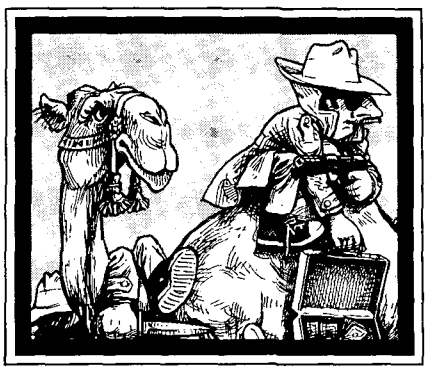
The battle of 'Richmond.' Last summer's 7-to-1 Supreme Court decision in favor of open courtrooms has been hailed as one of the most important in the history of the free press. But is it really so clear a victory? (*NAT HENTOFF*)

Politics . . . . . **p. 8**
Bleeding the self-employed. Now the IRS wants 10 percent every time you give money to someone with the temerity to work for himself. (*TOM BOURNE*)



Books . . . . . **p. 23**
Victor Marchetti on *Ropes of Sand,* by Wilbur Crane Eveland; Meredith Marsh on *The Writer on Her Work*, edited by Janet Sternburg; John Gordon on *World's End and Other Stories*, by Paul Theroux; David Gordon on *Radical Principles*, by Michael Walzer.

Film . . . . . **p. 30**
Stephen Harvey reviews *Ordinary People* and *The Elephant Man.*

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A WORD FROM THE PUBLISHER

IN GRADE SCHOOL WE were taught that the police are there to protect the citizens' right to life, liberty, and property (we were also taught that American Presidents are benevolent and smart—but that's another story). Later, many of us learned that in fact the police spend close to half their time violating the rights of peaceful drug users, prostitutes, pornographers, and other practitioners of victimless "crimes." But most of us are still unaware of the full extent of police lawlessness. In this issue, Susan Stern and Richard Cohen offer an account of the trigger-happy Los Angeles cops, with a glance at similar situations in Boston, Houston, and Chicago. Maybe it's time the police went back to doing what our grade school teachers told us they did. For some of the lurid and laughable feats of our international cops—the CIA—see Victor Marchetti, in our book section.

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RES PUBLICA

A bad trip

■ Former President Richard M. Nixon says that Ronald Reagan "values my foreign policy advice" and might give him a role, if elected, as "something like a counselor or negotiator."

Asked about this, a Reagan aide who requested anonymity replied: "He is hallucinating."

—New York Times, Oct. 4, 1980

What we have here is a failure to communicate

■ Capt. Ishai Cohen has one of the more demanding jobs in the Israeli army. He is the spokesman for the West Bank occupation forces, a position that often requires him to explain—or defend—sometimes controversial army practices in the Arab territories.

Such was the case Friday, as the Israeli army announced that it had "destroyed" the house of Mohammad Ibrahim Abu Ali in Yettah, a small West Bank city.

Cohen was asked: Won't destroying the house of a still untried suspect provoke more Arab anger and perpetuate the cycle of violence?

"They [the Arabs] understand it [a crackdown] very well," Cohen said. "You must remember that they hate us. They don't like us. In face-to-face private talks they have told us that we don't understand them."

—Miami Herald, Aug. 24, 1980

Come, let us reason together

■ Several leaders of the Rockland County Conservative Party were nursing bloodied mouths, bruised limbs and damaged egos today, after a party convention at a local bar turned into a chair-swinging brawl.

"A real donnybrook" was how County Legislator Diane Beljean described the meeting last night, which was in the Boom Boom Room of the Flamboyant Steakhouse and Show Lounge here. Two opposing factions exchanged punches and hurled glasses, chairs and beer before the police were called in to restore order.

—New York Times, Sept. 23, 1980

Ever the diplomat

■ Billy Carter responded to a question about [U.S. Attorney General Benjamin] Civiletti's role in the Justice Department investigation of his dealings with Libya by saying: "I didn't get Civiletti in trouble . . . Civiletti is Italian. I guess that's his problem."

—San Francisco Chronicle, Oct. 3, 1980

Cuba si! Miz Lillian, no!

■ Asked about the thousands of Cuban refugees who have fled to the United States: "I'll tell you the truth," Lillian Carter said, "I hope they don't come to Plains."

—Los Angeles Times, Sept. 25, 1980

Head and Shoulders above the crowd

■ [Jânio da Silva Quadros, former president of Brazil,] liked to watch westerns in the screening room of the presidential residence and tell friends that he imagined all the shooting victims to be congressmen. He prohibited bikinis and off-track betting and limited horse racing to Sundays. Feigning humble origins, he campaigned in worn suits with white powder dusted on the shoulders to simulate dandruff. . . .

—New York Times, Sept. 7, 1980

Blue ribbon in the boondoggle category

■ An Air Force exhibit on the MX intercontinental ballistic missile is traveling to a number of county fairs and communities in Nevada and Utah, preferred deployment region for the system. The walk-through display, featuring pictures, narratives and scale models, is scheduled to complete its tour and return to Wright-Patterson AFB, Ohio, by Oct. 24.

—Aviation Week & Space Technology, Sept. 15, 1980

We're from the government and we're here to help you

■ A man's life was at stake in Moraga last week—the kind of emergency requiring bravery and improvisation so ordinary for firemen and so foreign to bureaucrats who live by the book.

A huge slab of heavy clay on one side of a sewer-line trench 12 feet deep had collapsed, burying a carpenter almost up to his shoulders and immobilizing his arms and legs.

The Moraga Fire Department rescuers saw that a second collapse could mean suffocation and death for the victim, David Michaels . . . and they went right to work. More than three hours later Michaels was pulled free with only a few bruises from the ordeal.

Two days later, an inspector from the state Occupational Safety and Health Administration came knocking on the door.

Rescuing people is all well and good, but this particular rescue is alleged to have violated at least two safety regulations. The inspector handed the department formal, written citations.

OSHA regulations say all California workers, including those employed by fire departments, are not to go into a trench deeper than five feet unless its walls are shored by "metal-to-metal screw jack shorings," Assistant Fire Chief Ed Lucas said yesterday.

The second count cites the department for not having provided its firefighters with advanced "excavation" training.

—San Francisco Chronicle, Sept. 4, 1980

Enfant terrible

■ Consider, finally, the words of an American Indian [as reported in *American Dreams: Lost and Found,* by Studs Terkel].

"I see the United States Government as a little baby brat. If you say no, it throws something at you. If it sees something, it just grabs. Just drools all over and soils itself, and has to have others come in and clean it up. It's a 200-year-old kid. They gave us dual citizenship in 1924. How can a little teeny stupid 150-year-old Government grant citizenship to a Yakima Indian who has been here for eight million years? To a Puyallup? What an insult! (Laughs.) How can a lying little trespasser that doesn't know how to act right grant anything to anybody? Why doesn't somebody get that kid in line?"

—New York Times, Sept. 24, 1980

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Carter's meddling in the Middle East

Rapid deployment farce

AT A TIME WHEN TWO OF THE GREATEST oil producers of the Middle East are busy mauling each other, some Americans may sleep better believing that our military is prepared to intervene anywhere, anytime to impose order on such unruly peoples. The Carter administration's Rapid Deployment Force, we learn from its commander, Lieutenant General P. X. Kelley, "is not a paper tiger." In fact, he adds, "I would feel comfortable in going to war tomorrow."

We, on the other hand, will not sleep better knowing of General Kelley's peace of mind. From all indications, using the RDF in the Middle East would be an unmitigated disaster. According to General Volney Warner, head of the U.S. Readiness Command, it would take two weeks just to move the main combat units of the 17,000-man 82nd Airborne Division into the Persian Gulf. There they would have to fight without armor, or not fight at all unless massive supplies of ammunition, food, and fuel were immediately forthcoming. Even General Kelley admits that moving soldiers is the easy part; supplying them is the headache. Since even our most advanced cargo planes can not transport more than one XM-1 tank at a time, it appears that our RDF is, if not a paper tiger, then a toothless one.

The RDF was designed specifically with the Persian Gulf in mind; its training exercises have been mostly in desert regions. The strategic concept underlying the RDF was outlined in the 1981 military posture statement released by Defense Secretary Harold Brown in January 1980. Brown said the main threat to U.S. interests was not Soviet aggression but unchecked "turbulence" in the Third World. "Nowhere," he emphasized, "is this more the case than in the Middle East," where "war, terrorism, and subversion" might entail "temporary disruptions or a more permanent decline in the supply of oil."

Inadequate as the RDF may be, the United States has nonetheless fielded an impressive military force in the Indian Ocean: 2 aircraft carriers with more than 150 planes, 2 nuclear-powered guided missile cruisers, and 14 other combat ships. The Soviets have only 12 combat ships in all in the region. Moreover, the United States has basing facilities in Kenya, Somalia, Oman, Bahrain, and Diego Garcia. No one could accuse us of keeping a low profile.

Still, there is the minor problem of what to do with all this expensive hardware. (A single aircraft carrier, with planes, support ships, and shore facilities, costs over $35 billion in the course of its useful life.) Even with these forces, one defense expert suggests that attacking the Persian Gulf from Diego Garcia would be like "staging the Normandy invasion from Cape May, New Jersey." Supposing the troops did land in good order, what would their mission be?

Since everyone admits that the RDF would be useless against the Soviets, whose supply lines are much shorter, its real enemy is presumably the sort of "turbulence" that worries Harold Brown. But indigenous threats aren't much easier to cope with, as the Soviets are learning in Afghanistan. No amount of military force, for example, could prevent terrorist attacks against the thousands of miles of oil pipelines, nor against pumping stations, docking facilities, or the tankers themselves. To protect the Saudi fields alone—spread out over 30,000 square miles—would overwhelm the resources of the RDF. Nor is the RDF of much use against internal insurrections. Rather than bolstering an unpopular ruling clique, the presence of the RDF would doubtless rally people behind the opposition. Foreign armies are most unpopular there.

The fact is, American military power will never count for much in the Persian Gulf, even if the Pentagon gets the billions it wants to beef up the RDF. But President Carter obviously hasn't learned that lesson. Itching for action, he dispatched to Saudi Arabia (a key backer of Iraq) four of our most advanced radar planes (AWACS)—a tidy billion dollars worth. With them went 300 Americans needed to operate the planes. A few days later, Carter followed up with mobile ground radar units, communications equipment, and 96 more airmen to back up the Saudis. Secretary Brown notes that navy jets will be ready to defend the AWACS in case anyone resents their intrusion.

Brown and Carter have both emphasized their commitment to do "whatever is required" to keep open the Strait of Hormuz, through which much of the world's oil passes. Should the Carter administration choose to send a naval task force to occupy and patrol the strait, the AWACS planes will function, as designed, as advanced command posts.

There are two problems with the Carter administration's scenario. First of all, Pentagon officials admitted that much of the official concern was staged for public consumption. As one of them put it, "I think maybe we oversold the importance of the Strait of Hormuz in this. Right now, looking at the players and the situation out there, we don't see any real threat to the strait." In fact, most intelligence analysts agree that neither Iraq nor Iran has the capability to close the strait for long, if at all. One might add that only 11 percent of America's oil is shipped through the strait, compared with 60 percent of Europe's, and no European governments have called for naval intervention. Carter didn't even consult them.

Carter called his intervention a response to desperate Saudi requests for assistance. But in public, at least, the Saudis have taken an altogether calmer position. "Overreaction to threats that have not come about is, of course, a danger that has to be avoided," said the Saudi foreign minister, Prince Saud Faisal. The U.S. proposal for an international naval force to police the Strait of Hormuz was just such an example of overreaction, he added. "If one speculates and prepares for every eventuality, one tends to increase the threat. The dynamic of such logic is what is dangerous." Faisal insisted that Saudi Arabia had "no anxiety" that the war would spread to its

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borders or to the strait, and said that outside intervention would only "complicate the situation." The Soviet invasion of Afghanistan could not justify the United States sending forces into the Persian Gulf, he maintained. "It is this sort of logic that in the final analysis leads to a division of the whole world" into warring camps.

We couldn't have said it better ourselves. Carter's intervention serves only to lend weight to Khomeini's railings against American involvement in the Iran-Iraq conflict. It risks committing American troops and prestige in a distant area of the world, where even the awesome capabilities of the U.S. military would be sorely taxed. Above all, it is an utterly inappropriate response to problems that are at heart social and political, not military. The conflicts that pit Persian against Arab, Sunni against Shiites, and established states against such struggling groups as the Kurds and Palestinians, will take decades to be resolved. America must be prepared for a long wait. Harold Brown to the contrary, military force is not the way to cope with the tumult that lies ahead.

Place your bets; go directly to jail

A nation of outlaws

A YOUNG MAN DRESSED IN A CONSERVative three-piece suit wandered into the *INQUIRY* offices on a Thursday afternoon a couple of weeks ago, gravely shook hands, and announced, "I'm from the building pool." Since our building is rarely confused with, say, the Playboy Mansion West, we were all somewhat startled; just where was this pool located and did it include a locker room? The visitor chuckled in a dignified, executive way. "No, no, it's a *football* pool," he explained. "You buy a betting card and mark the teams you think will win this weekend. You could win a few hundred bucks."

The young man didn't look like a criminal and probably would have been surprised if any of us had called him one, but of course he is, just as surely as Al Capone and Bugsy Siegel were. If he is ever so unlucky as to try to peddle one of his betting cards to a San Francisco undercover cop, he'll do six months in the county jail, not to mention a $500 fine.

This entrepreneur is just one of literally tens of millions of criminals running loose through our streets this fall. Illegal gambling flourishes throughout the year, but it's the October football weather that really stirs their outlaw blood. Countless millions will have been won and lost by the time the last Super Bowl touchdown is scored in January. The fever infects Americans everywhere, from the obscure rural corners to the plush refuges of the mighty. In Greenville, Mississippi, a downtown cafe installs a bank of ten pay telephones every fall to handle the crush of local businessmen placing their bets long-distance to bookies in Jackson. And in the Washington offices of the staid *National Journal,* when the leaves turn brown it means it's time to crank up the transcontinental football pool that reaches into newsrooms all over the country and includes such luminaries as Bob Woodward of the *Washington Post.* The folks at the *National Journal,* who document every imperceptible move of the federal bureaucracy in such minute detail, seem blissfully unaware that they're violating a federal law by using the mail for their operation, and could win a five-year all-expenses-paid vacation with Squeaky Fromme.

There have been few more egregious examples of the government's highhandedness; by arbitrary fiat, our lawmakers have declared more than two-thirds of the U.S. population to be criminals. The 1976 report of President Nixon's commission on gambling said 68 percent of Americans gamble. The commission itself was under no delusion that the tide could be stemmed: "Gambling is inevitable," it concluded.

The argument for making gambling criminal used to be framed in straight moral terms; it was just *bad.* In recent years that's been somewhat altered; now it's a *sickness,* and we protect gamblers from the evil virus by throwing them in prisons. (Do you suppose it would help with tuberculosis and cancer, too?) Of course, it's only an illness when done with cards or dice; the millions of people who place bets on the stock exchange every day are investors rather than gamblers, and hence are patriotic businessmen rather than gibbering psychotics or sleazy crooks.

It is certainly unfortunate that some people lose a great deal of money at the craps table (although it's also unfortunate that some lose a lot of money in the stock market, or by backing businesses that fail). But keeping gambling outside the law hardly helps a hapless bettor; it merely means that, in addition to his losings, he must pay for the house's higher operating costs. In Nevada, where it's legal to place a bet on a football game, a gambler must pay a fifty-cent surcharge (or "vigorish") for every $10 bet he places, to cover the bookie's overhead. In Texas, where such bets are illegal, the surcharge is twice as high, since it has to cover the costs of bribing cops, judges, and other political flunkies.

The most atrocious rip-off, though, occurs in states that legalize gambling and then take it over as a way to boost revenue—apparently on the theory that it's all right to exploit the sick as long as the government gets its cut. Most popular are state lotteries, where gamblers try to correctly pick a three-digit number. The same sort of thing has been going on in America's inner cities for years; there it's called the numbers game. The catch in the game has always been that although picking the right number is a 999-to-1 shot, the house pays off only 540-to-1. When the state runs the game, the payoff rate is even lower. "Several states now have equivalents of the numbers," observes the veteran and unapologetic gambler Heywood Hale Broun, "and as far as I know none of them pays up to the 540-to-1 figure that satisfied the rapacious and evil octopi of organized crime. One official even argued that people would be happy to accept the lower payoffs of state-run gambling because of their knowledge of the wonderful uses to which their losses were put." (There's also some reason to think that old-time bookies run a more honest game; when the state lottery in Pennsylvania was fixed recently, it was the illegal bookies who detected the cheating and blew the whistle.) The lower payoffs also compensate for the political featherbedding that quickly develops around any government program; New York's Offtrack Betting Corporation pays 9 percent less on winning bets than do the private bookies, mostly to cover waste and political patronage, which officials admit run into the millions.

It would be nice to be able to say that we see an end to this madness—but we don't. When New York recently considered legalizing casino gambling, the loudest voice raised against the idea was that of New Jersey Governor Brendan Byrne—who of course didn't want any competition for the lucrative casinos in Atlantic City. The real criminals involved in gambling are the hypocritical, posturing politicians trying to make certain that no one interferes in their spoils; and the victims are the rest of us.

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LETTERS

Letters to the editor should be addressed to INQUIRY Magazine, 747 Front St., San Francisco, California 94111. The editors reserve the right to edit letters for length when necessary.

Reining in the nuclear monster

IN YOUR ARGUMENTS AGAINST government regulation of the nuclear industry [Sept. 22] you give too much credit to the abilities of private industry to police itself and prevent disaster. The comparison of nuclear energy with the automobile is an unfair one, since the scope of potential disaster is in no way close. Nor can you compare the complexity of building and operation of a dam with that of a nuclear power plant—dams cannot melt down. In all honesty it must be said that the fiasco at Three Mile Island was caused by not enough regulation—it was private industry that put incompetent, untrained operators in the control room, and it was private industry that built flawed equipment. While the NRC is a flawed organization in drastic need of redirection, its services are very, very necessary. We've seen the harm that greedy corporations have inflicted upon individuals and the environment as a whole. When business grows as large as government the solution is not to abolish government. What is needed is honest and efficient regulation, not a free rein for the monster corporations.

GARY GRILL
New York, N.Y.

Hard to swallow

I FIND YOUR "NEW LUD- dites" editorial on nuclear power singularly ill-informed, and riddled with clichés and false analogies. The danger lies not in explosions or emitted radiation but in the manufacture and indiscriminate spread of the most toxic substances ever created—plutonium, americium, tritium, cesium, strontium, and the like.

Take just one small item, the smoke detector now being ballyhooed into millions of American homes (but banned entirely in Japan). Looking inside, one finds it contains americium-241, a substance more poisonous than plutonium, emitting radiation for hundreds of years (half-life of 458 years). The smallest particle of americium when inhaled or ingested is fatal, and it is only a matter of time until it gets into the food chain.

Governmental authorities recognize this danger when they instruct the purchaser not to attempt disposition but to return the gadget to the manufacturer. Big joke. Each one will end up at the public dump and later be whisked up into the air or settle into the water supply. Standing near an emitter may be relatively harmless, but swallowing it is something else.

LOUIS W. JONES
San Mateo, Calif.

Militant ignorance

THE MOST APPROPRIATE response to *INQUIRY*'s editorial "The New Luddites" would be to send its author a list of books and studies to read on the history, economics, and technology of the nuclear industry. The editorial's militant ignorance can best be corrected by knowledge, not a letter. Some issues, however, must be set straight here.

Your attempted analogy between the development of radar and nuclear power proves the opposite of what you intend. Although radar was invented by the military, its civilian applications were left to private industry and had to sink or swim on the market. No federal "Radar Commission" was established to monopolize, plan, and develop its civilian applications, nor did the government unveil a massive "Radar for Peace" program to shove a particular application down our throats.

All serious studies of the skyrocketing costs of nuclear energy—Bupp and Derian's *Light Water*, the Rand Corporation, and the House Government Operations Committee—conclude that problems integral to the industry, not regulation, are primarily to blame for the "massive escalation of capital costs" you cite. NRC regulation obviously makes nuclear generation more expensive—but let's not be naive about the meaning and purpose of federal regulation. The NRC is a legitimizing device, not an adversary. All of its members are committed to nuclear power, and it hasn't prevented a single plant from being licensed.

The scientific controversy over low-level radiation is unresolved and too complicated to go into here; there are respected scientists on both sides. But your editorial manages to ignore the only relevant political issue: namely, what gives a government agency the right to tell an industry it can dump "acceptable" levels of radiation into other people's environment? Shouldn't the acceptability be determined by litigation starting from a basis of individual rights, and not by government fiat?

Apparently your editorial writer needs to be reminded that Price-Anderson is not the only, or even the most important, subsidy to the industry. The federal government controls the entire nuclear fuel cycle, subsidizing both uranium enrichment and waste disposal. The Export-Import Bank keeps the industry alive by subsidizing the purchase of reactors by Third World client states. The whole business of fission reactors makes little economic or technical sense unless we use their waste in breeder reactors (as the old AEC always planned). And no one but the federal government is now or ever has been willing to put up the billions necessary to develop breeders.

In this context, it's ridiculous to speak of "deregulating" the nuclear industry in the same way we speak of deregulating trucks and airplanes. Take out the government, and what's left?

The fact is, government created the civilian nuclear industry out of whole cloth to legitimize its nuclear weapons complex and to help maintain its hegemony over nuclear technology and materials. (Don't take my word for it—read the memoirs of Dwight Eisenhower and the speeches of John Foster Dulles.) Thus, if people are attacking the nuclear industry itself and not merely government intervention in it, perhaps it is because they recognize that the *entire industry* is a product of government intervention. That recognition is something *INQUIRY* ought to welcome, not sneer at.

MILTON MUELLER
San Francisco, Calif.

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NAT HENTOFF

The battle of 'Richmond'

"THE AMERICAN PEOPLE won a victory of enormous importance a few weeks ago," Katharine Graham, who chairs the American Newspaper Publishers Association, wrote in August. "Unfortunately, not many of them are fully aware of it."

The victory was a 7-to-1 Supreme Court decision in *Richmond Newspapers* v. *Virginia* declaring that under the First Amendment, the press and the public have a constitutional right to attend criminal trials. Graham was far from alone in her dance around the Liberty Tree. Dan Paul, one of the nation's most respected First Amendment lawyers, called *Richmond* "one of the two or three most important decisions in the whole history of the First Amendment."

And indeed, John Paul Stevens, one of the justices in the majority, trumpeted: "Today . . . for the first time, the Court unequivocally holds that an arbitrary interference with *access to important information* is an abridgment of the freedoms of speech and of the press protected by the First Amendment." (Emphasis added.)

What bothered Katharine Graham, in her message to other newspaper publishers throughout the land, was that most of the stories about *Richmond* have done little to explain to readers why the ruling was a victory for *them*. "I suspect," she said, "that all too many of our readers viewed this decision as just another round in the mystifying wars constantly being fought by an assertive press."

Graham is probably right. Coverage of the Court is customarily so shallow that except for readers of her own *Washington Post*, the *Kansas City Star*, or a few other papers, most of the citizenry have only the vaguest notion, if any, of the portents of *Richmond*—not all of which, by the way, necessarily warrant all the present huzzahs among the press. Although it was not addressed to me, I accept Graham's charge to illuminate, so far as that is possible, the *Richmond* decision.

First, however, why was it necessary? After all, Chief Justice Warren Burger, writing for the overwhelming majority of the Court in *Richmond*, spends many pages on a rather lyrical history of the openness of criminal trials, going back as far as one can trace that institution in Britain and then in the colonies.

As in this declaration of a general court in Kent, in 1313: "The King's will was that all evil doers should be punished after their deserts, and that justice should be ministered indifferently to rich as to poor; *and for the better accomplishing of this*, he prayed the community of the county *by their attendance* there to lend him their aid in the establishing of a happy and certain peace that should be both for the honour of the realm and their own welfare." (Emphasis added.)

Coverage of the Court is so shallow that few people have any notion of the Richmond case's importance.

Given the rich and ample precedent for public criminal trials, the July 2, 1980, decision in *Richmond* v. *Virginia* should have been no surprise. But there is a little tangled Court history involved here. Exactly a year before, the Court, in a 5-to-4 vote, ruled that the press and the public can be barred from pretrial hearings, and indeed from criminal trials, under the Sixth Amendment. The Court noted that the Sixth Amendment guarantees the accused the right to a public trial, but that there is no such guarantee in the amendment for the press and public to attend a criminal trial. And there can be times when the accused's fundamental right to a fair trial requires that it be closed.

Actually, the case (*Gannett Co.* v. *DePasquale*) concerned only a pretrial hearing which two men indicted for murder wanted closed lest there be injurious pretrial publicity. The Court's majority decision, however, written by Justice Potter Stewart, appeared to extend the barring of press and public to trials as well as pretrial hearings—if the defendant, the prosecution, and the judge agree.

Have I confused you? Well, it soon became clear that the Court itself didn't know exactly what it meant in *Gannett*. Reacting to press characterizations of the decision as "cloudy" and "incoherent," the Chief Justice made a public point of insisting that the ruling applied solely to pretrial hearings. Justice Harry Blackmun just as publicly disagreed with the Chief, claiming that *Gannett* applies to all proceedings in a criminal case. Three other justices felt impelled to clarify the intent of the decision, thereby muddying it all the more.

Meanwhile, lower courts took *Gannett* as a grand invitation to evict press and public from their proceedings. (In one West Virginia case, the press was barred, but not the public.) During the year before *Richmond* v. *Virginia* was decided, there were more than 270 efforts to close criminal justice proceedings, of which 160 were successful. Of those 160 secret proceedings, 126 were pretrial hearings and 34 were actual trials. Contrast this with Hugo Black's statement in the 1948 case, *In re Oliver*: "We have been unable to find a single instance of a criminal trial conducted in camera in any federal, state, or municipal court during the history of this country."

THE SUPREME COURT MAY or may not follow the election returns but the justices do read the newspapers, and it was evident that unless they said something clear and soon about whether there is a presumption of openness for criminal trials, less and less of a distinction would be made between closing pretrial and trial proceedings.

In *Richmond*, a murder defendant in Virginia was undergoing his fourth trial on the same charge (the three others had ended in mistrials). Fearing that the press would bring some of the testimony

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from the previous trials to the jury's attention, the defense attorney, citing *Gannett,* moved to close the trial. The prosecution did not object, and the judge so ordered. The public was also excluded.

While in *Gannett* the justices (except for Lewis Powell) had focused on the Sixth Amendment, in *Richmond Newspapers* they got the trial doors open again for the public and the press by concentrating on the First. Said the Chief Justice: "The First Amendment guarantees of speech and press, standing alone, prohibit government from summarily closing courtroom doors which had long been open to the public at the time that amendment was adopted."

And then Burger said something else that the press may not have expected. He mentioned, however warily, the press's right of access to information. It has long been clear that the press has a nearly absolute right to publish whatever information it gathers without censorship, without prior restraint. Any punishment of the press for what it publishes—libel, obscenity—must come after the printing. But the Court in the past has been notably cool to what the press considers the essential corollary right of *access* to information. Even Justice Stewart, a sometime friend of the press, noted in his renowned 1974 Yale Law School speech that: "There is no constitutional right to have access to particular government information, or to require openness from the bureaucracy. The public's interest in knowing about its government is protected by the guarantee of a Free Press, but the protection is indirect. The Constitution itself is neither a Freedom of Information Act nor an Official Secrets Act."

Yet now, in *Richmond,* the Court says the press has at least enough of a constitutional right of access to prevent a judge from barring reporters from a criminal trial. (Unless that judge has damn good reasons in terms of the defendant's constitutional rights. More of which anon.)

Of all the justices who had something of their own to say in *Richmond* (there were four concurring opinions and one dissent), John Paul Stevens was the most emphatic about the "right of access" breakthrough. Stevens had fought unsuccessfully for such a First Amendment right of access to prisons in *Houchins* v. *KQED* (1978). There he had quoted James Madison: "A popular Government, without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy; or perhaps both. Knowledge will forever govern ignorance. And a people who mean to be their own governors must arm themselves with the power knowledge gives."

Therefore, Stevens went on: "It is not sufficient . . . that the channels of communication be free of governmental restraints. Without some protection for the acquisition of information about the operation of public institutions such as prisons by the public at large, the process of self-governance contemplated by the Framers would be stripped of its substance."

Accordingly, in the *Richmond* case, Stevens was practically crowing. ("This is a watershed case.") However, he couldn't resist a dig at his brethren for not having had this First Amendment revelation when it came to access to prisons. ("The plight of a segment of society least able to protect itself.")

There is considerable doubt, however, that the majority of the brethren are even now anywhere near Stevens's view that the press's First Amendment right of access extends beyond courtrooms. Brennan and probably Marshall would go along, but I do not yet share the leaping optimism of some First Amendment lawyers that *Richmond* will inexorably open the prisons and other restricted governmental domains. To be sure, there are seeds in some of the various opinions in this case that could flower into a much broader First Amendment right to access; but as Jack Landau of the Reporters Committee for Freedom of the Press observes, "There have been seeds that have been sown before which have dried up and shriveled away."

STILL, THERE IS THE clear victory for open courtrooms. Except: Burger ends the majority opinion by saying that criminal trials must be public "absent an overriding interest articulated in findings." In other words, absent a compelling argument for closing the proceedings by the defense or by the prosecution. (An illustration of the latter might be the need to protect the identity of an undercover witness.)

In the abundance of *Richmond* opinions it is exceedingly difficult to find any sure guidelines on what "overriding interests" could lead a judge to balance away the First Amendment rights of the press and the public to attend a trial. However, in a close analysis in the *National Law Journal,* James Goodale, long the resident constitutionalist at the *New York Times* and now in private practice, has come up with a likely set of guidelines for future cases.

On the basis of *Richmond* as well as previous opinions by the justices, Goodale believes that there is a majority on the Court (probably six votes) for a test that would allow the closing of a trial if the defense were able to show: (1) immediate and irreparable damage to the defendant's fair trial rights, (2) no available alternatives to booting out the press and public, and (3) the likelihood that closure would be effective and there would be no leaks.

But what about pretrial hearings? In *Richmond,* the Chief Justice explicitly distinguished the case from *Gannett.* The latter, Burger persisted in saying, had to do with only *pretrial* hearings. This case has to do with *trials.*

Courts can still close pretrial hearings that might reveal hair-raisingly improper police methods.

So *Gannett* has not been overruled. Yet some 90 percent of all criminal cases are decided, one way or another, at pretrial hearings. It's certainly worth having the victory of *Richmond;* but lower courts will still be able to close, for instance, suppression-of-evidence hearings, which might reveal, among other things, hair-raisingly improper police methods.

Nonetheless, there appear to be—and I am somewhat more cautious about this prediction than are most analysts of *Richmond*—overtones of the decision that will lead eventually to the opening of most pretrial procedures. Soon after *Richmond,* the Vermont Supreme Court declared that although that decision does not expressly apply to pretrial hearings, "it would seem fair to infer that it does." Without losing a beat, however, the Vermont court went on to say that recognizing a First Amendment right of access to any judicial proceeding doesn't mean recognizing it as an absolute right. "Other interests" must be weighed against it.

Says Floyd Abrams, the nation's top-seeded First Amendment attorney: "We

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are probably back to where we were two years ago with open trials, and now and then a closed pretrial suppression hearing, when a criminal defendant can make a strong showing."

THERE IS ONE POTENTIAL danger in *Richmond*, according to Abrams. If he's right, this could be one of the First Amendment's costliest victories. On the one hand, there is the seeming breakthrough in terms of establishing a First Amendment right to access for the press. Justice Stevens celebrated the occasion with a fanfare of infinite possibilities: "Until today the Court has accorded virtually absolute protection to the dissemination of information or ideas, but never before has it squarely held that the acquisition of newsworthy matter is entitled to any constitutional protection whatsoever."

Remember, however, that this breakthrough is set in the context of judicial proceedings—whether trial or pretrial—in which the balancing of colliding constitutional interests is a common practice. The Court, in *Richmond*, has established a strong presumption of openness in trials, but it has not made access an absolute First Amendment right. On Sixth Amendment grounds, a defendant may still be able to convince a judge to banish the press.

If Abrams is right, this could be one of the First Amendment's most costly victories.

What disturbs Floyd Abrams is that, as time goes on and the concept of access rights expands, the courts—having become accustomed to balancing First Amendment rights of access against other interests—may well begin to extend that balancing act into the area of prior restraint.

"What the press has now," says Abrams, "is a nearly absolute right to print whatever it can get. During the first stage of the Pentagon Papers case, for instance, Federal District Judge Murray Gurfein asked Alexander Bickel, a lawyer for the *Times*, why that eminently respectable newspaper would want to print such material. Bickel told him, 'Your honor, with all respect, you have no right to ask me that question.' Bickel was correct. The *Times*, whatever its motivation, whatever it thought of the material, had a First Amendment right to go ahead and publish.

"But in right to access cases," Abrams continues, "judges are going to be asking—as, in let's say, a suit about a prison—'Why do you want to go in there?' Judges will be deciding whether the press has 'reasonable' grounds for access. Now, once judges start making rules as to what is 'reasonable' for the press to cover and what is not, we're going to be in a bad way. This kind of judicial thinking could slide over to some future Pentagon Papers or *Progressive* case. Is the newspaper being 'reasonable' in its intention to print? Is it being 'responsible'?"

For Floyd Abrams's fears about *Richmond* to materialize into a weakening of prohibitions against prior restraint would require federal judges capable of confusing these two quite separate areas of First Amendment law. However, having listened to and debated a number of federal judges at various symposiums and conferences in the past couple of years, I too am afraid that such confusable jurists are not in short supply.

One unequivocally positive result of *Richmond*, however, may have been to disabuse judges and justices of the illusion that reading a transcript of a court hearing is as good as being there. One of Potter Stewart's justifications for excluding the press from the pretrial hearing in *Gannett* was that the journalists on the story nonetheless had no problem "accurately and completely" informing the public later because a transcript had been made available to them.

In *Richmond*, Mr. Justice Brennan observed forcefully that "the availability of a trial transcript is no substitute for a public presence at the trial itself. As any experienced appellate judge can attest, the 'cold' record is a very imperfect reproduction of events that transpire in the courtroom. Indeed, to the extent that publicity serves as a check upon trial officials, 'recordation . . . would be found to operate rather as cloak than check. As cloak in reality, as check only in appearance.'"

Not much of a victory, you might say—this piercing of the pretensions of a transcript. But at least it's a clear victory. ❑

POLITICS

TOM BOURNE

Bleeding the self-employed

THE INTERNAL REVENUE Service is the sweetest little moneymaker the federal government ever had. The cost of running the agency, *Fortune* magazine reported earlier this year, is forty-six cents for every $100 collected. With margins like that, Chrysler could buy out the entire Japanese auto industry. For the IRS, however, it's just not good enough.

Flushed with their own success, the tax boys now dream of collecting $600 million annually by bringing self-employed persons into the withholding system. "Withholding benefits not only the government but taxpayers by providing a gradual and systematic way for taxpayers to pay their taxes and insuring the social security coverage that they need and are entitled to." That's what Donald C. Lubick, Assistant Secretary of the Treasury for Tax Policy, told the House Subcommittee on Select Revenue Measures last June. Lubick was testifying in favor of HR 5460, a bill that would require individuals and businesses to withhold a "modest" 10 percent from fees paid to independent contractors.

Since 1943, when the "pay as you go" plan was approved by Congress, self-employed people have paid their taxes in advance, quarter by quarter. Then, in 1972, the IRS spent some $2 million on a survey of 5152 self-employed persons and found that 47 percent of all independent contractors did not report any of the compensation they had received. And 62 percent did not pay into the social security fund as provided by the Self-Employment Contribution Act (SECA). Superficially, the survey seemed to portray all self-employed workers as chiselers and tax cheats. A closer exami-

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nation shows, however, that noncompliance occurred only at the low end of the economic scale. When amounts of compensation were less than $100, the noncompliance rate was 76.5 percent, but in the $15,000-to-$20,000 range, noncompliance was just 6.9 percent, and for amounts above $50,000 there was zero noncompliance. Even Harry Conley, mathematical statistician for the General Accounting Office, conceded that "76 percent of all the taxes were paid."

Nevertheless, HR 5460 won subcommittee approval and has been sent up to the full Ways and Means Committee. If passed by Congress in its present form, the measure would allow the self-employed three exceptions to withholding: if the independent contractor performs the service for five or more "unrelated service recipients," or if the contractor certifies that withholding would be excessive, or if the transaction is the simple sale of a product or the collection of a commission on sales.

Understandably the small business operators of America are up in arms. Independent truckers are particularly upset. Already, 71 percent of a trucker's gross receipts are consumed by fixed operating expenses—fuel, maintenance, depreciation, insurance, tolls, permits and license fees, and operating taxes. On an average gross income of $39,000, the trucker is left with a disposable income of just $16,000, a level at which the IRS survey found 92 percent compliance. "To take a further 10 percent from an amount of compensation that is already squeezed in meeting fixed costs and operating expenses that are rapidly escalating as a result of inflation is unconscionable," said trucking executive Duncan McRae Jr., and it would ruin many independent truckers.

Ten percent withholding would also have a marked effect on those self-employed people who are just scraping by. It would strap them in the same way the IRS has exploited low-income employees. A 1977 GAO booklet, "Inequities in the Federal Withholding Tax System," revealed that people in low-income brackets *owe* at a rate of about 3.8 percent, but are *withheld* at a rate of 11 to 12 percent. They are left with the burden of trying to recover the overpayment at the end of the year—at which point they must sort through mountains of bureaucratic paperwork. Doctors, lawyers, accountants, painters, plumbers, electricians—any independent contractors—would be turned into part-time clerks.

Parents would even have to withhold 10 percent from the payments they make to babysitters. Any business or person that did not comply with reporting of payments in excess of $600 annually would incur a fine of $50 per missed return, instead of the present $1.

More serious yet may be the psychological effect on the self-employed. Entrepreneurs of all kinds told Congress that being their own boss was the best part of their work; that withholding and self-employment were inimical. As insurance agent Willis Crain explained, "I am concerned with anything that erodes my independent status, and I feel that withholding is simply the first step in changing me from a self-employed independent contractor to an employee."

UNDERLYING THE IRS'S drive to impose withholding is the agency's desire to reduce the incentive for businesses to classify workers as independent contractors. At present, such a classification reduces insurance premiums, cuts business expenses through the elimination of contributions to social security and unemployment taxes, and holds down overall record-keeping. If more workers are classified as employees in the future, more tax revenues will be generated—particularly for the social security fund, which receives 50 percent of its contributions from employers.

The government also favors universal withholding because it would make IRS administrative functions easier. Right now, the IRS cannot keep track of the earnings of self-employed people as well as it can employees on whom it holds a W-2 form. Under present law, payers need only report once per year.

The one good feature of HR 5460 is that it defines who independent contractors are. That feature is an outgrowth of a previous bill, HR 3245, the Independent Contractor Tax Clarification Act, which would have established five criteria for determining whether a person is an employee or an independent contractor. It would have replaced the existing common law definition.

Opposed by the IRS, the Independent Contractor Tax Clarification Act was backed overwhelmingly by the small businesses that testified on its behalf in Congress. Currently, if even one of the twenty factors in the common law definition favors consideration of the worker as an employee, the IRS is at liberty to go after small businesses for failure to pay back taxes.

Consider the case of Robert Beausoleil, president of the Vermont Timber Truckers and Producers Association. Beausoleil was assessed $98,500 in back taxes in 1978; the IRS claimed that persons he had hired were his employees and not independent contractors. Included among these "employees" were: a real estate broker from whom Beausoleil had bought cutting rights, farmers from whom he had bought wood they had cleared off their own land, and logging and trucking contractors. By treating these people as independent contractors, said the IRS, Beausoleil had evaded payment of his share of social security and federal unemployment taxes and had withheld no wages. Beausoleil spent two years fighting the IRS on this issue, hiring attorneys and accountants along the way, although, as he testified, "Federal court decisions have held that, in logging operations just about identical to mine, for IRS employment tax purposes, the contractors are, in fact, independent contractors—not employees."

Thus, at the behest of the IRS, the House has taken a good bill, HR 3245, which would protect struggling independent business people and then overlaid it with the disastrous HR 5460, which would very likely drive the small entrepreneur straight to bankruptcy.

Few would deny that self-employed people make an important contribution to the U.S. economy. Many use their own equipment. They buy their own insurance. Often payers find them to be more aggressive workers. This is because they have to be: If they don't work, they don't get paid; and when the work is finished, there is no unemployment compensation to tide them over till the next bit of work comes along. Moreover, the very nature of their work is uncertain and speculative at times. In return for braving this high-risk element of the economy, the self-employed have been accustomed to only one thing, namely, a paycheck free from the government tax bite. But the notion of intact paychecks is anathema to the IRS.

One thing is demonstrable—that the ranks of the self-employed are dwindling rapidly. According to the *Statistical Abstract of the United States,* as of 1940, 21.7 percent of the total work force, nearly 10 million people, were self-employed. By 1974 that figure had dropped to 8.5 percent, or 7.3 million persons. Withholding will just accentuate this decline. Perhaps Representative Ken Holland of South Carolina spoke for all when he groaned, "We are going to make every businessman in the nation a constable based on 5152 statistics." ❑

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KILLER COPS

In Los Angeles the police are an occupying army. Standard procedure is to shoot first and, if pressed, ask questions later.

By SUSAN STERN and RICHARD COHEN

CORNELIUS TATUM WAS EDGY HIS FIRST night on the job at the Power gas station. The station had been robbed recently. At forty-two, Tatum was still a vigorous, powerfully built black man, but he wasn't taking any chances. When he left his Lakewood home that evening, he packed a shotgun in his camper. It was a cold, slow January evening in south central Los Angeles. At about 8 P.M. there was a commotion at the liquor store across the street. Tatum had just sold a pack of Winstons to a man who continued to loiter near the station office. He didn't know that the man, Oscar Haney, was an aircraft mechanic who lived just behind the station.

When a black Pontiac Firebird with two young black women pulled into the station, Tatum carried his shotgun with him across the brightly lit lot. Johnnie and Eleanor McMurray had driven to the Power gas station because it sold the cheapest cigarettes in the neighborhood. When they saw Tatum walking toward them with his shotgun, they wished they'd gone elsewhere.

Johnnie McMurray was still nervous after Tatum explained the situation and stepped into the cashier's booth. She saw him put the shotgun down, but now she feared the station might be robbed at any moment. Johnnie remembers telling Tatum to hurry up and get the cigarettes, and he was, she says, reaching for a pack when she heard a funny noise and turned to see six men who looked like hippies running toward her with their guns drawn.

"Eleanor! Get down! They're going to shoot!" Johnnie screamed just before the bullets whizzed over the Firebird and shattered the glass near the cigarette rack. While the McMurrays crouched on the floor of their car, certain that their worst fears had come true, one of the white men ran up, leaned across the hood of their car, and pumped four more shots into the doorway of the cashier's booth.

Huddled near the wall of the service station office, Oscar Haney says he saw Tatum reaching for the cigarettes a split second before the first shot was fired. Then Tatum slumped down and disappeared into the booth. Haney was sure the station was being robbed.

When the shooting ceased, Haney walked over to the black Firebird. He was in the middle of assuring the shaken Johnnie McMurray that she didn't have to talk to the unidentified armed man standing at her window when the man flashed his badge and ordered Haney to move on.

The six men were Los Angeles undercover police officers working on the CRASH (Community Resources Against Street Hoodlums) unit. Seeing a black male with a shotgun walking across the lot, they thought he was a robber. Without taking

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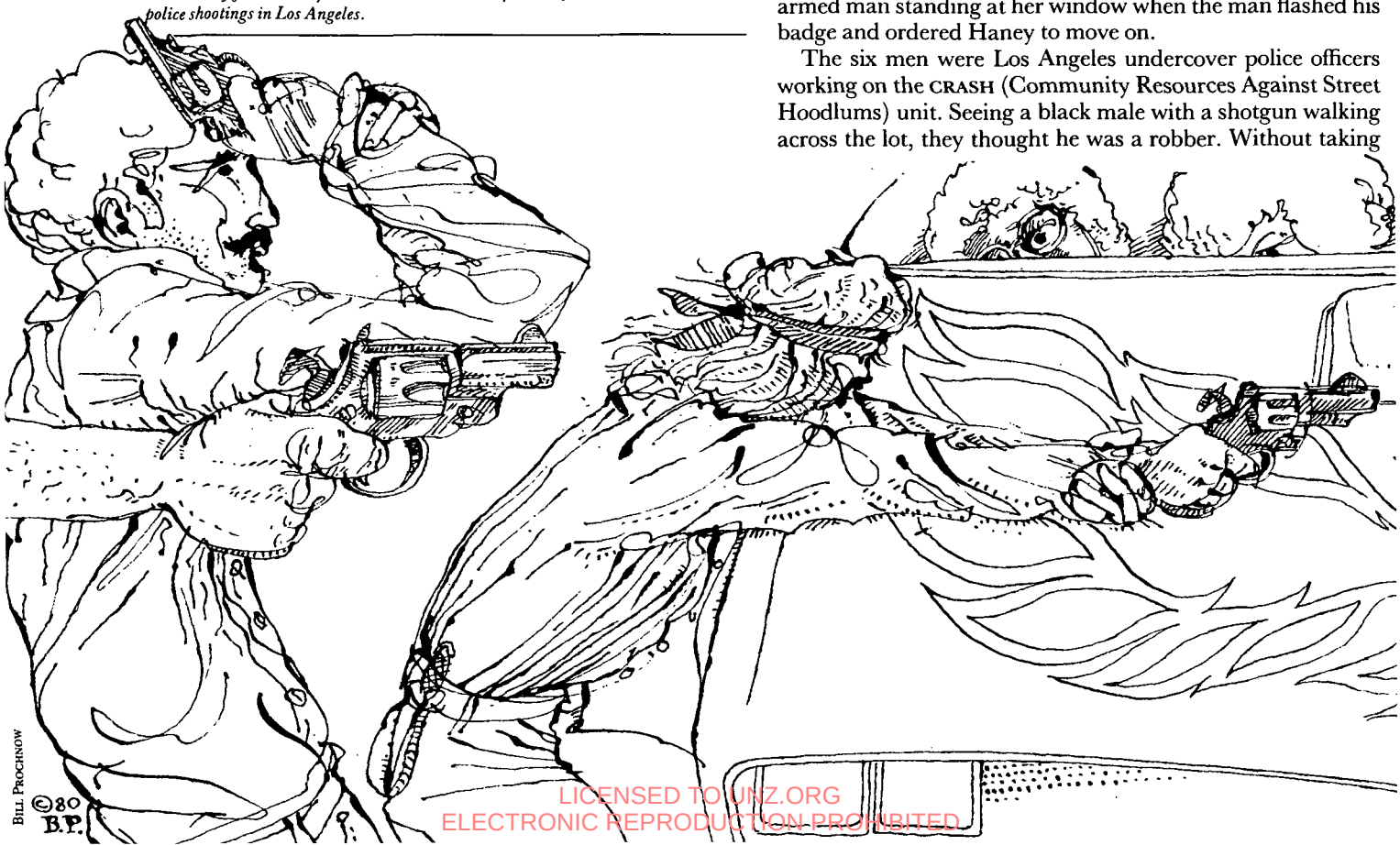

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the time to plan their move, they swung their unmarked cars into the station and charged. They say they shouted, "Police! Drop it!" as they surrounded the cashier's booth, but that Tatum had spun in the doorway of the booth and leveled his shotgun at Officer Norman Nelson. Officers Nelson, Cesario Reyes, and Harrell Compton immediately opened fire. They saw Tatum go down. Then Nelson dashed to the McMurrays' car and fired the four shots that permanently paralyzed Tatum from the waist down.

Cornelius Tatum was lucky. Fifty-eight other Angelenos were shot by the LAPD in 1979 and fourteen of them died. Few would have remembered Tatum's story had it not been played out in a Los Angeles courtroom last summer, when the district attorney, for the first time in eight years, brought LAPD officers to trial for a civilian shooting. The charge: assault with a deadly weapon.

Los Angeles policemen answered District Attorney John Van de Kamp's indictment last March with a picket line outside an expensive Beverly Hills restaurant where the DA was enjoying a $250-a-plate fund-raiser. Police Chief Daryl Gates angrily said the DA's staff had "acted incorrectly and in an irresponsible manner." The sharpest attack, however, came from the Los Angeles Police Protective League, the city's powerful police union. George Aliano, its president, denounced the indictment and charged that the DA was mixing politics with police work.

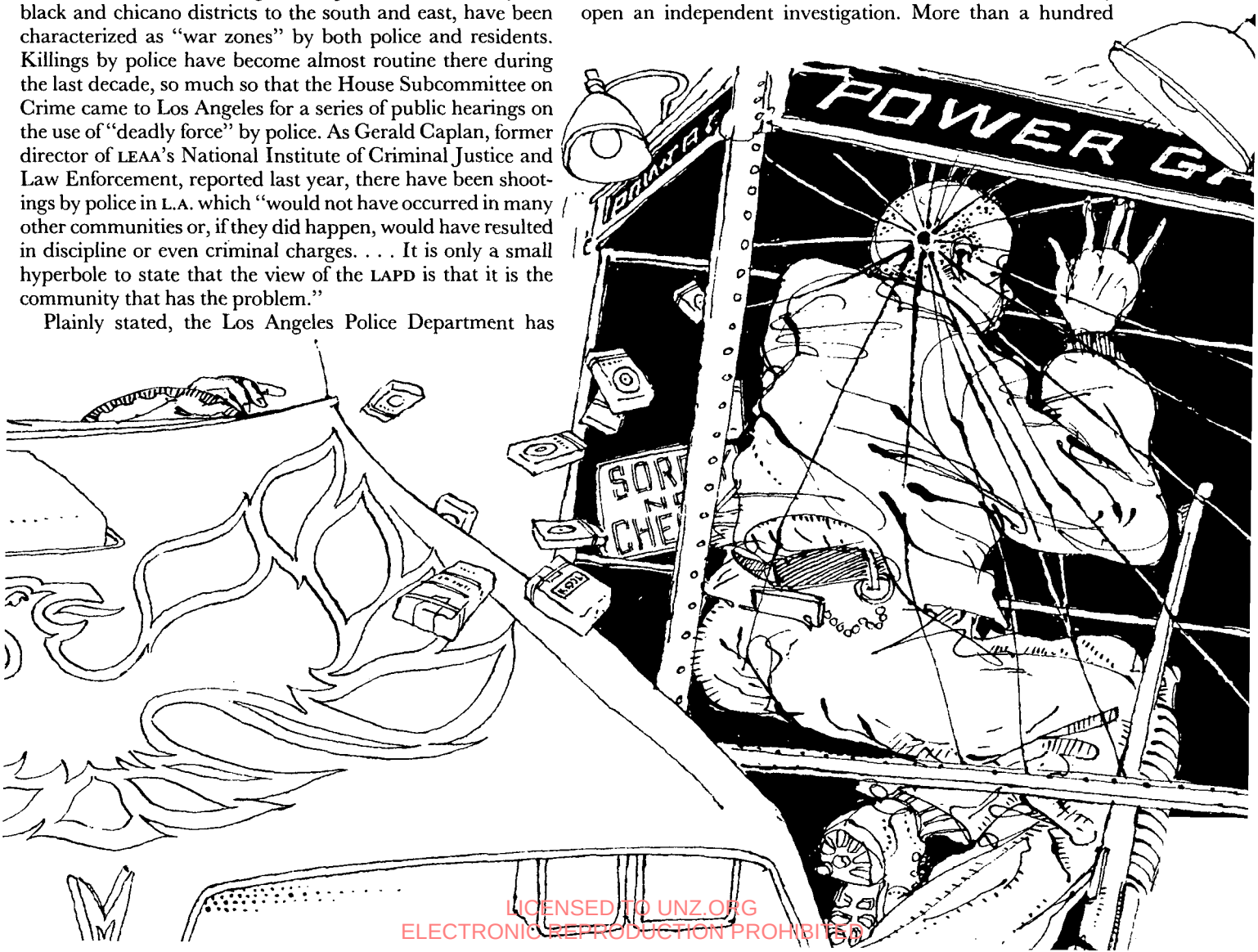
Mixing politics with police work is precisely what has been going on in L.A., but not quite in the way the police describe it. For years certain Los Angeles neighborhoods, notably the black and chicano districts to the south and east, have been characterized as "war zones" by both police and residents. Killings by police have become almost routine there during the last decade, so much so that the House Subcommittee on Crime came to Los Angeles for a series of public hearings on the use of "deadly force" by police. As Gerald Caplan, former director of LEAA's National Institute of Criminal Justice and Law Enforcement, reported last year, there have been shootings by police in L.A. which "would not have occurred in many other communities or, if they did happen, would have resulted in discipline or even criminal charges. . . . It is only a small hyperbole to state that the view of the LAPD is that it is the community that has the problem."

Plainly stated, the Los Angeles Police Department has stationed itself as a virtual occupying army in a city where the order of the day is to shoot first and, if pressed, ask questions later. The backbone of the force and the fount of its war-zone mentality is not, however, the departmental hierarchy. It is instead the officers' union, the police protective league.

The league operates from a small gold stucco fortress in old downtown L.A. Great heavy wooden doors and wrought iron window bars protect it from the "war zones" outside. The league proclaims itself to be nothing more than the dedicated champion of "the cop on the beat." In fact it is one of the richest and most powerful political organizations in southern California. Its members are required by the nature of their jobs to canvass every block and alley of Los Angeles, its contributions to city council elections are unsurpassed, and its professed objective is to breed a climate of fear that no opponent will dare challenge.

Setting fear aside, a growing number of citizens have challenged the league and the department. Foremost has been the Coalition Against Police Abuse (CAPA). "There's been a lot of bodies laid in the streets in those years" since the last LAPD cop was indicted, says Charles Chapple, CAPA chairman. And many of these deaths, he adds, were even more "questionable" than the Tatum shooting. One was Barry Evans, a seventeen-year-old black high-school student stopped in 1976 by two LAPD officers in the walkway of his family's apartment. An argument erupted that turned into a fight, and one of the officers fatally shot the unarmed Evans in the back, claiming that the teen-ager was going for his partner's gun.

Scores of black citizens demanded that the district attorney open an independent investigation. More than a hundred



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people banded together in an organization called People United. Nine months after the killing, Van de Kamp agreed to investigate. His conclusion, issued in language that would become routine over the next five years, was that there was insufficient evidence to prosecute. Calling the Evans shooting a murder, community activists plastered the streets with "Wanted" posters for the two officers.

The officers retaliated by suing People United for libel. Although the judge ultimately threw out the case, Chapple says the suit had a serious effect on the new organization. "I had no money so they could sue me all they wanted," Chapple laughed, "but we lost quite a few members who owned homes and other valuables. They were scared off."

'Police unions spend a great deal of their money... to keep on cops who are crooked, brutal.'

It was in 1976 that the battle between the police and the community escalated to a new level. Over twenty community groups banded together to form CAPA, and in the same month the protective league legally incorporated.

The league, which represents virtually all of the LAPD's 6600 officers (including, oddly, Chief Gates), occasionally acknowledges its role as the "political arm of the police department."

"The LAPD cannot give an endorsement to help a candidate in an election, but your Los Angeles Police Protective League can," *Blue Line,* the league's monthly newspaper reported recently. "As an organization we can provide political muscle in Sacramento for the LAPD and we are currently doing just that on certain legislation." Come budget time, the LAPD benefits from the league's $1.2 million dues base, which allows it to make generous contributions to most city council members. Until this year, city funds paid the salaries of seven full-time league directors, whose lobbying activities are also an asset to the department. In 1976 the league won passage in the legislature of a police "Bill of Rights" that cut back the department's ability to investigate its officers for misconduct and freed officers from taking lie detector tests.

Even archconservative former police chief Ed Davis was appalled, and denounced the law as a "fatal blow." Davis charged that in Los Angeles, as in other cities, the police union has become preoccupied with fighting for the "rights" of officers charged with administrative and criminal offenses. He compared the trend in Los Angeles to that in Honolulu, where, he said, "police unions spend a great deal of their money, effort and energy not to get pay raises or better pensions, but to fight to keep on cops who are crooked, brutal...."

When Ron Burkholder, a National Science Foundation fellow, was killed by the LAPD in August 1977, it was George Franscell, the league's flamboyant attorney, who represented the accused officer at the coroner's inquest. Naked and unarmed, Burkholder was cut down by six LAPD bullets as he walked down the street with his hands extended. After the Friends of Burkholder organization and CAPA protested their way onto the pages of *Newsweek* and the *Los Angeles Times,* the coroner convened the first inquest into a police shooting in six years. But the police department refused to turn over any records, and the officer who shot Burkholder refused to answer the coroner's questions.

Just three months before Burkholder was killed, KABC-TV reporter Wayne Satz broadcast a series of stinging reports on the lack of police accountability in Los Angeles. Satz criticized the district attorney for his failure to check police crime, and he attacked the internal investigations by the department's Officer Involved Shooting unit (OIS) as biased in its own interest. To underscore his charges Satz brought an active LAPD officer on the air to tell the inside story. Disguised in a frogman suit and a Lone Ranger mask, and with his voice electronically distorted, six-year LAPD veteran John Mitchell appeared anonymously on television at the dinner hour for five nights running.

"Policemen are eager to get into shootings," Mitchell declared. "It's supposed to look good in your package when you're up for promotion, the fellas are excited for an officer who has just been in a shooting. It's comparable to the excitement of a football team toward a player who has just scored a winning touchdown."

"I was never an aggressive officer myself," Mitchell said, summing up his six-year career with the LAPD in an interview for the documentary film *Deadly Force,* "but I never stood up to my partner and said, don't choke that person. I always backed up my partner, helped him make up stories [for police reports] to keep him out of trouble.... I perjured myself in court.... I wanted to fit into the system, I wanted to promote, I wanted to do well."

This spring, three police officers slapped KABC, Satz, and Mitchell with a multimillion dollar lawsuit for conspiracy to defame the LAPD. The suit was one of three recently filed by police against KABC, which has been the leading media critic of the police deparment.

THE EVENTS OF 1977 PROVED TO BE A turning point for both the public and the police. For decades the Los Angeles Police Commission had held little more than titular responsibility for the department. But in 1977, the mayor-appointed police commission rewrote LAPD gun policy, outlawing the shooting of nonviolent fleeing felons and mandating that "deadly force" could be used only to protect a police officer or citizen threatened with death or serious bodily injury. Ed Davis, Chief Gates, and the league fought the new shooting policy, claiming it would handcuff the police. But CAPA's Charles Chapple said it did nothing of the sort: "They announced their new shooting policy to the City Council and within two days they'd gunned down two more people."

Nevertheless, in 1977 CAPA succeeded in pressuring the city council to hold public hearings into the problem of police shootings. The city council took no action after the hearings, but CAPA's testimony struck to the heart of the police department's power. On the premise that public access to police records of citizens' complaints and OIS investigations would rein in what CAPA considered the department's unbridled power, the community group demanded that the police department disclose some OIS reports to the city council. Their request was denied. Meanwhile CAPA joined with the Greater Watts Justice Center in a lawsuit against the LAPD to gain public access to citizen complaint records. In retaliation, the police went to the state legislature. There, in 1978, they pushed a bill through that made police personnel "packages" privileged.

"We have a public records act in this state that applies to other public officials so that we can see citizens' complaints against them," Bob Berke, a former Los Angeles public de-

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It's not just Los Angeles—it's Boston...

SINCE 1967 TWO AMERICANS HAVE been legally executed in the United States. Between 1967 and 1977, more than six thousand were shot dead in the streets by police, nearly two citizens each day. Last year a Department of Justice official warned that this use of "deadly force" is "one of the most serious and inflammatory community relations problems confronting the nation." Already, his words seem an understatement. This year police shootings have triggered riots and demonstrations in Miami, New Orleans, Philadelphia, and Michigan. In Baltimore, Chicago, Houston, and Boston police killings have brought out hundreds and sometimes thousands of demonstrators.

It was the shooting of fourteen-year-old Levi Hart that brought black Bostonians into the streets in July. "Police brutality" was a charge commonly heard in the black community, but it had been a secondary issue, overshadowed by the escalating violence between black and white citizens.

On July 15, Levi Hart and two friends went for a joyride in an allegedly stolen car. Officer Richard Bourque took up the chase. When the car finally screeched to a halt, the three fled on foot and Bourque pursued Hart. After a wrestling match between the six-foot-one, 220-pound police officer and the five-foot-four, 110-pound Hart, the youth ended up with a bullet through his brain. Bourque claims Hart, who was unarmed, snatched the officer's police revolver from its holster and accidentally shot himself. But several witnesses say that Bourque ran after Hart with his gun drawn, and beat the fourteen-year-old over the head with the pistol several times before administering the *coup de grâce*.

Though Officer Bourque denies pistol whipping Hart, the youth suffered a massive skull fracture which the pathologists claim could have been caused only by a blunt object. None of Hart's fingerprints were found on Bourque's gun, nor did Hart's hands show the telltale traces of gunfire.

Blacks in Boston demanded that the inquest into Hart's death be open to the public, but to no avail.

Judge Richard Banks, who is black, ruled there was "criminal responsibility" in Hart's death. But, when the district attorney presented the case to the grand jury, it found there was insufficient evidence to indict Bourque. Hart family has sued the city for $43 million, probably th largest police misconduct civil suit yet to hit the city of Boston.

No one in the Boston black community can even remember the last time the district attorney has prosecuted a cop for a shooting or a beating. Neither could David Rodman, executive assistant to the district attorney. "Boston just hasn't been out in the forefront in that area," he said.

fender, notes, ". . . but if it's a police officer, armed with weapons, with the power to put a person in prison for life or the power to cripple someone like Tatum, we can't even see whether there have been complaints against him. We can't even see if the department is well managed."

SB 1436 not only hides police records from the public; it also restricts the information that may be obtained in the courtroom. The bill states, for example, that judges considering discovery motions may "make any order which justice requires to protect the officer or agency from unnecessary annoyance, embarrassment, or oppression." According to "Masked Policeman" John Mitchell, the police have pressed assault charges against citizens to cover their own brutality. After the California Supreme Court ruled in 1974 that records of citizens' complaints could be subpoenaed, defense attorneys throughout the state were able to demonstrate that their clients were actually the victims of cops who had long prior records of brutality.

Not surprisingly, the LAPD was incensed. And not surprisingly, it took little time for the department to find a pretext for destroying the incriminating personnel packages. In 1976 the police shredded four tons of citizens' complaints. Though the shredding was in violation of a state statute, a Los Angeles grand jury failed to press charges.

Interoffice memos that led to the shredding also revealed the city attorney's concern over the civil liability threat from citizens' complaints. In 1976 Los Angeles paid out $572,895 to victims of police brutality and false arrest. But by 1979 the bill for police misconduct civil suits had jumped to $1,970,278, and the total for 1970–79 was $7.4 million. Last January, a truck driver for the Los Angeles County school system won a $1.25 million judgment against the police, the largest misconduct award in the city's history. Roy Wyche had been stopped for having an allegedly loud muffler and a dimly lit license plate. When he protested, one of the officers bashed in his skull with a heavy police flashlight.

The LAPD's drive against citizen complaints went largely unnoticed until Eulia Mae Love was killed in 1979 and the city attorney advised that SB 1436 forbade the police commission to disclose any information on the case. The commission may

have kept silent, but black Los Angeles was seething. Eulia Love, a widowed black mother of three, was gunned down by two policemen in her own home in a neat, middle-class section of south central L.A.

Delinquent in her Southern California Gas bill, Mrs. Love had struck a company employee who had come to turn off her gas. After the gas man left, the company called the police. Mrs. Love, meanwhile, had gone out to purchase a money order for her bill. It was in her purse when the two officers advanced on her with their guns drawn, and knocked a boning knife from her hand. As she picked up the knife and tossed it at them, the officers unloaded eight bullets into her body.

Virtually none of the people called to jury duty a year later, in the trial of officers Nelson, Compton, and Reyes, remembered hearing about the shooting of Cornelius Tatum. Many

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of them had, however, heard of Love. After Love was shot, 200 women from black churches, including state assemblywoman Maxine Waters, mourned for her on the lawn of Parker Center, LAPD headquarters.

The district attorney did not indict the police officers in the Love case, but the police commission, for the first time in its history, conducted a major investigation into the shooting, and finally declared it in violation of the LAPD gun policy. The league was infuriated by the ruling. And it was even angrier when the commission later announced that in the future it would review every police shooting.

Using a tactic that would become its hallmark, the league immediately filed two lawsuits against the commission. In the words of *Blue Line*, "The League is at the forefront of the recent upswing in the number of lawsuits by police officers who are unwilling to suffer abuse and injury at the hands of the public." According to *Blue Line*, the league financed about fifty such lawsuits filed by members between 1973 and 1978.

Now, in its first suit against the police commission, the league seeks to prevent the panel from putting its report on the Love case into the involved officers' personnel files. The second suit seeks to prevent the commission from investigating police shootings. "If we have to go all the way to the supreme court, we're going," league attorney Franscell said. "You're going to see a major fight. We can't live with this."

The final blow to the police came last December, when Van de Kamp's Operation Rollout received funding from the federal Law Enforcement Assistance Administration (LEAA). Rollout is, by all accounts, the most vigorous effort launched by a district attorney to investigate police shootings. It puts teams of deputy district attorneys and investigators on twenty-four-hour alert to "roll out" immediately to the scene of police shootings and conduct investigations. On paper the project seemed to be a serious attempt to keep the police under control, but according to a report made by federal law enforcement authority Gerald Caplan in March, the LAPD has successfully impeded the effectiveness of Rollout.

"Not only has Chief Gates refused the D.A.'s personal request to promulgate guidelines . . . but the spirit of resistance has permeated the bottom ranks of the department," Caplan wrote. The police had handcuffed the Rollout team by withholding information from them and delaying them in interviewing witnesses. Even more troublesome, Caplan reported, are the "fact finding" procedures used by the LAPD in carrying out their internal investigations. "These suggest," he wrote, "that LAPD resistance to Rollout is rooted in something more significant than bureaucratic rivalry with the District Attorney, and that an impulse to conceal misconduct may be the motivating force." Plainly stated, police policy encourages cover-up.

When, right on the heels of the new Rollout program, Officers Nelson, Reyes, and Compton were indicted for shooting Cornelius Tatum, the league went directly to the city council. Its demand, supported by Chief Gates, was that the city pay for the officers' criminal defense.

After only forty-five minutes of discussion, the city council decided to comply with the league's wishes. Not that the league was especially surprised. In private individual meetings, league lobbyists had already reminded the elected council members of their responsibilities. Well before the meeting was gaveled to order, league president George Aliano could rest assured of the officials' unanimous support. As Councilman Marvin Braude explained, the police demand for funds put the council in an uncomfortable position. "It was like having a vote in the council: It is resolved that we support our police department. Who is going to vote against that? The police always get what they want" from the council, he added.

When the trial of officers Nelson, Compton, and Reyes finally got underway on July 28, the "war zone" between the police and the citizens of Los Angeles moved for thirteen days

...and Houston...

AT LEAST 50 PERCENT OF AMERICANS killed by police officers are black, and in cities like Houston, chicanos are the main target of police bullets. Yet white citizens are also shot by police. It was the shooting of a white gay activist, Fred Paez, that brought thousands of candle-bearing marchers to the Houston city hall in June.

During Gay Pride Week, Officer K. M. McCoy was moonlighting as a security guard at a freight moving company. He and his buddy were sitting drinking beer at 2:30 A.M. when, they say, Fred Paez circled a couple of times around the block and then pulled up and "engaged them in conversation." McCoy and his friend say they went to the side of the building with Paez, at his suggestion. Then, in the language of the police report, Paez approached McCoy and "touched him between the legs."

McCoy, according to the police report, quickly flashed his badge and arrested Paez for public lewdness. Pistol in hand, McCoy had Paez bend over a parked car with his arms outstretched, in order to search him. But instead of getting searched, Paez got a bullet through the back of his skull. McCoy says Paez reached behind himself and tried to grab McCoy's gun, setting off the fatal bullet.

The Harris County medical examiner ruled the shooting accidental, but the Houston district attorney and the U.S. attorney's office are still investigating the case.

Fear of the police has become virtually a tradition in Houston. After twenty-three-year-old Joe Campos Torres was beaten and drowned by the Houston police in 1976, citizens of all races tended to agree with criminal lawyer Percy Forman when he called Houston a "police state."

Since 1976 Houston has been through three police chiefs and a series of police department reforms, including an expanded police misconduct investigation unit and a more restrictive policy on when cops can fire their guns.

But according to Jenifer Schaye of the Public Interest Advocacy Center, an LEAA-funded group that receives citizens' complaints of police abuse, the volume of police shootings and beatings in Houston has not declined.

Nor does the Houston DA seem to be prosecuting the police. Between 1974 and 1977 the Houston grand jury heard twenty-five police shooting cases and indicted only one officer. Since July 1979, the Houston DA has investigated sixty-eight police shooting cases; of those that have been presented to a grand jury, so far no indictments have been returned.

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into an air-conditioned courtroom. Charles Chapple was there, and Maria Herbst, Ron Burkholder's widow. So was the league's City Hall lobbyist Sam Flores, along with a large phalanx of policemen in business suits. And when Cornelius Tatum was wheeled into the courtroom to face Norman Nelson, Cesario Reyes, and Harrell Compton, memory called to mind the names of the citizens and police officers who never made it to the witness stand.

It was, of course, only the shooting of Cornelius Tatum that was at issue—only the fragmented and conflicting story of what happened in five to seven seconds one night at the Power gas station. But in the politically polarized courtroom, where a nervous, frightened prosecutor faced off against the full power of the police protective league, many watched anxiously for an indication of who was winning the larger war.

Johnnie McMurray was nervous when she took the stand on the second day of the trial and recounted once again how she had driven her big black Firebird up to the gas station on that evening to buy cigarettes. Prosecutor Jay Lipman knew that McMurray, like all his witnesses, was terrified of testifying against the police. All of Lipman's eyewitnesses were black residents of south central Los Angeles. All the defense witnesses were police.

The entire police testimony on the shootings sounded 'like a script' to prosecutor Lipman.

Keeping his questions brief and emotionless, Lipman brought out McMurray's story piece by piece. Yes, she had seen Tatum approaching with the shotgun and she had thought he was a robber. When he identified himself as the station attendant, she ordered Viceroys for herself and Marlboros for her sister-in-law Eleanor. "He put the shotgun down inside the booth," she testified, "and I asked him again to get the cigarettes and hurry up."

Like all Lipman's witnesses, Johnnie McMurray testified that the last thing she saw before the blast of police bullets was Tatum reaching for her cigarettes. "Did you ever see the person in that booth point a shotgun?" Lipman asked her.

"No, I did not," she answered.

Despite occasional tremors, Johnnie McMurray seemed sure of herself on the stand. Then defense counsel George Franscell took over. Armed with a tape recording of McMurray's statement to OIS investigators three hours after the shooting, Franscell began to batter away at the young woman's story. After a series of thunderous demands from Franscell and the introduction of the nearly unintelligible tape recording, she acknowledged that she had made contradictory statements to the police. "I was in a state of shock," she told the court. "They had me down there all night. How would you feel if you had just saw someone get killed?"

SET AGAINST THE FRIGHTENED YOUNG woman's testimony, the performance of the police officers was a model of seasoned decorum. And a performance is precisely what they gave. From the point of view of prosecutor Lipman, the entire police testimony about the shooting sounded "like a script."

Using phrases that would later be repeated almost verbatim in the testimony of Nelson and Reyes, Harrell Compton described how the three defendants, and the three other officers who charged but did not fire on Tatum, made a U-turn into the Power gas station after seeing the man they thought was a robber. Compton said he heard his partners yelling "Police officers, Halt! . . . Drop it! Drop it!" as they ran toward the cashier's booth with their guns drawn. But Tatum spun around, he said, got into a "semi-crouched" position, and leveled the shotgun at Nelson.

Lipman hammered away at Compton in his characteristic low-key style, but there was no way he could do to any of the officers what Franscell had done to McMurray. For the OIS investigators had chosen not to tape-record the police officers' statements on the night of the shooting. Though Lipman was unable to crack what he called the police "script," his examination did reveal the peculiar steps the OIS team had taken to create an almost impenetrable version of the shooting.

When Lipman asked Compton which of the police officers had yelled "Drop it! Police!" Compton hesitated and said, "I now know."

"You know that from later conversations?" shot Lipman.

"Yes," Compton admitted.

"Did you go back [to the scene that night] and reconstruct with the other officers?"

"Yes I did."

"Is it because you went back that you now know?"

"Not entirely," said Compton.

Unlike Johnnie McMurray, Compton and the other officers not only had been escorted by the OIS team back to the police station after the shooting. They had all been interviewed together without the tape recorder running, escorted back to the gas station to reconstruct the shooting, and then returned to the police station for a second "group interview." (It was precisely this use of group interviews of officers that consultant Gerald Caplan cited as a critical flaw in OIS procedures. Without directly accusing the department of encouraging perjury among its men, Caplan pointed out that "Separating witnesses and taking their statements separately, without giving them opportunity to check with another and fashion a false narrative, is standard procedure elsewhere.")

OIS chief Charles Higbie admitted in an interview outside the courtroom that the Los Angles Police Commission had expressly ordered the OIS team to interview police officers separately, as it interviewed civilian witnesses, and to record the statements. Higbie acknowledged Caplan's criticism. However, when asked if he planned to comply with the commission's directive, Higbie had "no comment."

Throughout the case prosecutor Lipman accepted the fact that juries usually place more credence in police testimony than they do in the accounts of untrained civilian witnesses. All of that would change, he believed, once the jury was taken to the scene of the shooting, the Power gas station. There, he reasoned, the jurors would see that a man of Tatum's height and girth could not possibly have contorted himself into the position the police described. They would have seen the five bullet holes in the glass next to the cigarette rack, several feet from where the police say Tatum was standing when they opened fire. And they would have seen, first hand, that the positions of Johnnie McMurray and Oscar Haney had provided them clear views of the assault. Common sense alone would have led them to the inescapable conclusion that the police had ruthlessly shot down an innocent gas station attendant who was doing nothing more than reaching for a pack of cigarettes. Beyond that "common sense" approach, Lip-

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man did very little other preparation.

And so it was that Jay Lipman suffered a devastating blow when, halfway through the trial, police attorney Franscell withdrew his motion to visit the gas station and the judge denied Lipman's own motion for the visit. The jury could not be taken to the scene, the judge ruled, because he feared demonstrators and reporters might cause a ruckus.

Yet the constant, dominating presence of the police officers in the courtroom had begun to affect Lipman's performance. "I've been trying cases with policemen as my witnesses for years," he said after the trial. "Policemen are my friends. There were officers who walked in the courtroom who I've known for years, and they just turned their faces, they wouldn't even look at me. There was tremendous pressure."

...and Chicago...

*OFFICER HOWARD SAFFORD OF CHI-*cago's Afro American Police League claims that Chicago is "just as ripe as Miami or Philadelphia" for protests against police shootings and beatings.

This July, Richard Ramey, a fifty-one-year-old black man, was beaten to death by three young white Chicago cops after he allegedly "resisted arrest" on the El train. His crime? Smoking a cigarette.

It seems that the three plainclothes officers, assigned to watch for muggers on the subway, told Ramey to put his cigarette out. When Ramey refused, the officers arrested him for disorderly conduct.

About fifteen minutes later, when Officers Fred Christiano, Fred Eurallo, and Louis Klisz finally brought Ramey into the police station, he was semi-conscious and covered with blood. The officers charged Ramey with "resisting arrest" and "battery against a police officer." They were ordered to take him to a hospital.

Ramey died shortly after reaching the hospital. The police officers said they thought he'd suffered a heart attack. But the medical examiner found nine broken ribs, two broken legs, and a broken neck. He ruled that Ramey had died of "massive internal and external hemorrhaging" and called the beating a homicide.

The Cook County state's attorney indicted the three officers for murder. But according to Officer Saffold, the Cook County state's attorney's office has a history of refusing to prosecute the police, and of preparing "shoddy cases" against police officers on the rare occasion of indictments.

Officers Christiano, Eurallo, and Klisz were suspended from the Chicago police force, but the Teamsters' Union, vying to become the bargaining agent for the Chicago police, immediately stepped in and offered the officers janitorial jobs—above their police salary level. That brought black Chicagoans out to demonstrate in front of the McCormick Center, where the policemen are now working.

Said Saffold: "We don't need, we don't trust, and we'd rather not have the police. That's the way some people in Chicago feel."

It was as though the police, by their constant presence and their barely submerged disgust toward the prosecution, had converted the trial into an attack on anyone who would dare question police authority. Lipman's best chance to break that spell and corroborate his witnesses' testimony was to take the jurors beyond the courtroom, to the site of Cornelius Tatum's tragedy, where they could be vividly reminded that the trial was about the shooting of a man who had been pointlessly paralyzed for life. Once he lost that critical motion, Lipman said only that he had no time to prepare any evidence that could bring the Power gas station into the courtroom.

Police attorney Franscell, meanwhile, with the aid of Lieutenant Higbie, managed quite ably to bring his version of the scene of the shooting to the jury. On the seventh morning of the trial Lieutenant Higbie walked toward the courtroom under the glare of news cameras, carrying a huge carton wrapped in brown paper. Other police officers followed carrying a video monitor. The LAPD has worked around Hollywood long enough to know how to set a scene.

That afternoon, Franscell played the jury a minute-long video tape in which Officers Nelson, Compton, and Reyes, one after another, walked into the cashier's booth of the Power gas station with a shotgun and turned as they say Tatum turned.

It was a rather convincing ballet, except for the fact that Tatum is much huskier than any of the defendants. And on the one night that Tatum stood in the booth, he had shared the cramped space with a stool. The stool, however, was not in the videotape version produced by the OIS.

Higbie then presented another distorted piece of defense evidence: a scale model of the cashier's booth with a "Tatum dummy" which even Franscell later admitted was too small. As the only three-dimensional representation of the Power gas station presented in the trial, the scale model was sadly misrepresentative of the way things were on the night Tatum was shot. Unaccountably, Lipman failed to lodge any objection. "There were so many missing things," one black juror complained after the trial. "Why didn't they have a scale model of the car? We [the jurors] asked if we could get a car, but were told we couldn't once the evidence was entered."

After all the eyewitnesses' stories had been told and retold and the miniature props examined, the only evidence left in the trial was the expert interpretation of bloodstains and the trajectories of the bullets the police had fired. The three experts were all members of the LAPD, and they supported their fellow officers' stories. When Lipman pressed the defendants on why almost all the bullet holes were near the cigarette rack and not at the door where they claimed Tatum was standing, the officers said merely that their marksmanship was poor. Lipman did not ask the police department for their marksmanship records.

Which led to the final anomaly. Why, if Cornelius Tatum had been holding a shotgun, were there no bullet marks on the gun from the four shots that had paralyzed him? Under cross-examination, one police expert did admit reluctantly that a bullet that had passed through Tatum's wrist might well have hit the shotgun Tatum was allegedly pointing, but it was an admission which Lipman failed to pursue through independent expert witnesses. Why also were there only two specks of blood on the shotgun when Tatum's jacket and the bills in his pocket were soaked with blood? The OIS investigators had no answer, and by the time they arrived at the scene, Officer Nelson had already removed the shotgun from the cashier's booth.

Thus the testimony in the trial of Cornelius Tatum ended.

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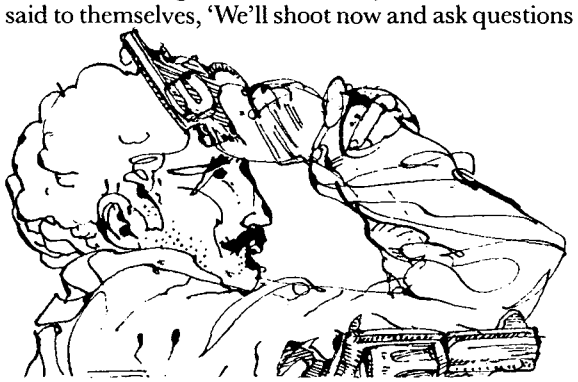
As police attorney George Franscell had presented the case, the only thought on the officers' minds that chilly January night was, "Oh my god, there's a robbery going on . . . and a car with citizens in it." (In fact, the officers testified that they had not even seen the car before they swung into the gas station.) On the other hand, argued Lipman, "From the instant those officers saw Cornelius Tatum with the shotgun, his life was bought and sold. They had a free robber. They said to themselves, 'We'll shoot now and ask questions later.'"



The predominantly white jury deliberated almost four days before finding Reyes and Compton innocent. A mistrial was declared in the case of Nelson, however, when three of the four blacks on the jury held out for a guilty verdict after several ballots. But the whole jury was clearly shaken by the episode. In an impassioned, handwritten statement they declared their "concern and dismay with the actions of the officers."

"We do not believe that in the actions related to the shooting of Mr. Tatum, the police conducted themselves with due concern for the lives and welfare of the persons who could have been seriously injured," the jurors said. "Two women in a vehicle, almost in the line of fire, were disregarded by the officers."

"In short," the jury concluded, "We believe that the Los Angeles Police Dept. should view with grave concern the actions of these officers. If the actions of these experienced officers are examples of the training they receive, then all citizens should be concerned."

JAY LIPMAN, WHO CLAIMS TO HAVE WON 98 percent of his cases against citizens before being transferred to the Rollout unit, appeared worn out by the trial and disappointed by the verdict. "People just don't want to convict the cops," he sighed. "My own next-door neighbor said to me 'Jay, I hope you lose, because I don't like to see policemen prosecuted.'"

George Franscell was jubilant: "This case had an awesome effect on the morale of the LAPD," Franscell declared. "There was more on trial here than three police officers. The integrity of the LAPD was at stake. And the jury upheld the integrity of our investigations."

But no cheer went up from the police officers in the courtroom when the verdict was announced. For the cops, league president Aliano explained, the trial itself was a major blow. The league had become convinced it was losing "clout" in Los Angeles politics largely as a result of being "beat up" in the media for everything it did. As Aliano sees it, now is the time for a new offensive. To regain that political clout and boost officers' morale, Aliano says the union must build public support and reinstill fear in the hearts of elected officials.

"I guess fear is what they believe in," Aliano said in an interview after the trial. "It's not being professional and all that; it's the clout that you have that makes them afraid. And what makes them afraid? Having the power to take somebody out of office and having a lot of public support, so they know if they mess with the police, the public is going to be down on them." To unseat its elected enemies, Aliano said the league intends to put police officers out in the streets walking precincts for and against public officials. The league's enemies, Aliano boasted, "will have to put volunteers out to walk districts for them . . . but we have our own army."

"If you start putting 500 police officers walking precincts in a council district," Aliano said, "and you're able to take somebody out, ears are going to be perked up and they're going to say 'these people know the combination now and we'd better start listening to them.'"

Aliano will not name politicians his group is planning to walk against in upcoming elections. So far the league has sent out its troops in only two races—to support Sid Trapp against Van de Kamp, and to support Stockton assemblyman Carmen Perino. In Perino's campaign the league bussed policemen to Stockton from all over the state. Both Trapp and Perino lost, however.

The league has also just launched a $1 million public relations campaign. The campaign will be directed by CAPS (Citizens Advocating Police Support). This new nonprofit organization established by the league will have a seventeen-member board made up of entertainers, business people, league directors, Chief Gates, a police commissioner, chamber of commerce representatives, and minority leaders. These board members, Aliano said, will be responsible for raising funds for the public relations campaign. Western Regional Banking and Union Oil, says Aliano, are among the major corporations that have already expressed interest in contributing. Aliano expects corporate gifts to be "in the six figures."

Meanwhile CAPA, the Coalition Against Police Abuse, is also going on the offensive, and has launched a voter initiative to establish a citizens review board. Immediately after the acquittals in the Tatum case, a newly formed coalition for a review board, of which CAPA is a member, handed out a ten-page indictment of prosecutor Lipman's handling of the trial; it criticized him as "careless, unconcerned, and unprepared." For CAPA and the hundred or so Los Angeles citizens groups united in the campaign, the trial of Nelson, Reyes, and Compton reinforced a growing feeling that such weak prosecutions are not enough to stem the tide of shootings by police in Los Angeles.

This summer marked the fifteenth anniversary of the riots in Watts, which were also triggered by a police shooting. Yet contrary to the fears of many observers, there was no explosion in Los Angeles ghettos when the LAPD officers were acquitted. Keith Wyatt, an attorney at the Greater Watts Justice Center, was not surprised. "There's about seven or eight people a year killed down here," Wyatt shrugged. "If people got upset about it the way they did in Miami, we'd be having a riot every other week."

Thirteen Los Angeles citizens have been shot by the police since Nelson, Reyes, and Compton were indicted last March. And at the Power gas station nearly all the traces of Tatum's tragedy have been removed. One week into the trial the gas station was sold, and Target Enterprises, the new owners, are remodeling. A new office building with bulletproof glass will be built. And most of the rest of the station is being slowly dismantled. The gas pumps were taken out midway through the trial, but the district attorney stopped Target Enterprises in the middle of sandblasting the jutting carport. All that remained was the cashier's booth, alone in the swirling sand, with its bullet holes and the sign that reads: "Warning, don't smoke. Turn off your car." ❏

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Central American Powder Keg

The fuse runs through Nicaragua, El Salvador, Honduras, and Guatemala—and everyone from the Israelis to the PLO is playing with matches. No amount of U.S. aid to 'moderate' juntas can prevent an explosion that's been building for half a century.

By ANNE NELSON

BY MAY 15 THE REFUgees from the massacre at the Río Sumpul began to venture into San Salvador. The dirt farmers and stray members of their families would slip into the archbishopry or the university for furtive press conferences. With timid, downcast eyes they would tell their stories to small groups of reporters.

It had been a major operation. Allowing for the Salvadoran tendency to be casual about large numbers, it appeared that at least a thousand troops from the national guard, the army, and the paramilitary organization ORDEN were involved. More than six hundred civilian men, women, and children had lost their lives—cut down in government machine-gun fire, executed after capture, or, attempting to escape, drowned in the Sumpul, which runs between El Salvador and Honduras. One grizzled fellow with a thick back-country accent battled tears, speaking quietly and almost apologetically as he told of troops throwing children into the river, including a baby of six months, while olive-green helicopters circled overhead.

But the savagery of Río Sumpul did not belong to the Salvadoreans alone. On May 5, high Honduran, Guatemalan, and Salvadoran military officials had held a secret meeting in the border city of El Poy, El Salvador. The day before the massacre, nearly 250 Honduran soldiers had arrived at the border and begun to build stone barricades along the riverbank. The next day, Honduran troops forced the terrified people, some with their hands tied behind them, back across the river into the waiting gun barrels of the Salvadoreans. A number of those gun barrels belonged to Uzi submachine guns and Galil assault rifles, manufactured and marketed by the Israelis. Many of the soldiers and paramilitary marksmen were employing "counterinsurgency" techniques they had learned from Venezuelan and Guatemalan advisers. The origin of the particular olive-green helicopters that tracked the refugees and showered them with gunfire is anyone's guess, but one possibility is the United States.

Despite a White House ban on helicopter sales to El Salvador until that country improves its human rights image, the Salvadoran government managed to buy eight U.S.–manufactured helicopters last year with funds misappropriated from its own civilian agencies. The United States has also leased ten army UH-1Hs to Honduras, the first such lend-lease agreement initiated by Washington since Vietnam. According to Deputy Assistant Secretary of State John Bushnell, those helicopters were intended to help Honduras "patrol its rugged frontiers and transport rapidly troops to areas where intruders are discovered in its territory." After the massacre, the Honduran government first claimed that the refugees were turned back because they were "intruders." Then, suddenly, it denied that the event ever took place.

All in all, Río Sumpul was a thoroughly international affair, typical of a region where civil unrest and political repression are as contagious as the plague. The U.S. Department of State has three emergency policy task forces in

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operation: One deals with Iran, one with Afghanistan, and one with El Salvador. At first glance, the inclusion of El Salvador might be puzzling. The urgency is due not so much to the conflict within El Salvador as to the internationalization of that conflict, which is already well underway.

The presence of Guatemalan military advisers in El Salvador, which is flaunted by Guatemalan rightists, has been quietly confirmed in diplomatic circles. Guatemala also provides arms to El Salvador's ultra-Right and sanctuary to Major Roberto D'Abuisson, head of the paramilitary terrorist organizations, who is widely rumored to conduct training activities in the Guatemalan region of Jutiapa. On the other hand, Nicaragua's revolutionary government openly sympathizes with the Salvadoran opposition, but it can give very little direct support. Nicaragua is badly strapped for manpower and financial resources for its own reconstruction efforts and lacks a common border with El Salvador for the transport of men or arms.

In addition, the Nicaraguans are deeply aware that any military involvement in El Salvador could easily do their cause more harm than good. It would cost them $75 million in aid from the United States and provide an excuse for Guatemala and Honduras to step up their support for the other side. And it could provoke the United States to send in the marines, an option that has been eagerly discussed more than once in Pentagon City.

THE SIMPLISTIC U.S. explanation for the trouble in Central America is that Nicaragua somehow *caused* the creeping unrest in El Salvador, Guatemala, and Honduras. This is as nonsensical as the suggestion that Castro created the Nicaraguan insurrection. The Sandinista victory sowed hope among reformists and revolutionaries, and panic among reactionaries, throughout Central America, but the adversaries had been well-defined and firmly in place for decades. Nicaragua was merely the first sign of a regional upheaval. If El Salvador now appears to be the second, it is only because that is where, for the time being, the two sides are most evenly matched.

The nations of the northern tier of Central America—Nicaragua, El Salvador, Honduras, and the kingpin, Guatemala—have a lot of cultural and political history in common. Closely related Indian groups populated the region until the arrival of the Spaniards, who governed much of the area from the seat of Antigua Guatemala. For a few years following the wars of independence, what the Spanish had called the Captaincy General of Guatemala became the Federal Republic of Central America. There have been several attempts to reunite the republic since that time, and the Guatemalan constitution still maintains that any citizen of Central America has Guatemalan citizenship as well. Given this history, it is no surprise that the same political and social changes are occurring throughout Central America these days. Each individual country may have its particular pace and characteristics, but the macrocosm is the region as a whole.

Central America's last major upheaval was in the early 1930s, when Sandino led his revolt against the first U.S.–installed Somoza in Nicaragua and Farabundo Martí oversaw a peasant rebellion in El Salvador. The end results were the installation of the Somoza dynasty and the Martínez military dictatorship as the guardians of wealth and military might in their respective countries for the next half-century. The ruling classes consolidated their power through the military, and the military of the northern tier ensured its invulnerability through mutual defense treaties and a central command, CONDECA. The opposition, democratic or otherwise, largely went underground; its infrequent forays into the open were calamitous. José Napoleón Duarte, a Christian Democrat who won the presidential election in El Salvador in 1972, was defrauded of his office and exiled. Jacobo Arbenz, a Social Democrat who was elected and installed as president of Guatemala in 1951, was overthrown in a CIA–engineered coup three years later. And Pedro Joaquín Chamorro, the conservative Nicaraguan publisher who challenged Somoza too bravely and consistently from the pages of his *Prensa,* was shot down in the street.

By the early seventies, however, some hopeful signs were appearing. Parts of the Catholic church had begun to join in the struggle, and the United States, apparently chastened by its experience in Vietnam, was backing off from the interventionist policies that had buttressed Central America's dictators for so long. New channels of communication—between peasant and student, Indian and guerrillero, socialist and priest—led to new political alignments.

The insurrection in Nicaragua spotlighted some old international alliances and saw some new ones formed. The generals of CONDECA made half-hearted statements in support of their old crony in Managua but seemed unwilling to commit their forces to his decayed regime. The Israelis, who had supported the Somoza dynasty ever since it favored them with a crucial United Nations vote in 1948, provided the regime with 98 percent of its arms. On the Sandinista side, Costa Rica and Panama benignly

Three nations rate active emergency task forces at the State Department—Iran, Afghanistan, and El Salvador.

ignored training camps within their borders and the movement of arms and troops across them. Cuba was an early and vocal supporter of the cause, and in all likelihood several hundred Nicaraguans trained on the island. A brigade of exiled Argentines joined the fight against Somoza. Each of El Salvador's leftist organizations sent a contingent, and each sustained battle losses; the organization with perhaps the strongest representation among the Salvadoran unions (FAPU) sent badly needed funds. Whether it was a matter of revenge or historical irony, another Sandinista ally was the PLO, which supplied arms via Libya and Algeria.

The United States, which had sent the marines into Nicaragua in the 1920s and created the Somoza dynasty in the 1930s, by 1979 did not feel that it could in good conscience preserve the regime. The insurrection presented an awkward problem: Although the State Department was more than happy to see the dictator go, it could not welcome the Frente Sandinista as his replacement with such alacrity. At a meeting of the Organization of American States in June 1979, U.S. Ambassador Gale McGee made a last-ditch attempt to corral the other nations into providing a "peace-keeping force" that would have blocked the Sandinistas while Washington continued its search for an acceptable "center." The stakes were so big

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that even Cyrus Vance put in a rare appearance. It didn't wash. There were any number of reasons for the U.S. defeat, some of them temporary, but it was a dramatic moment. For the first time in memory the rubber-stamp organization had stood up to its creator and prime benefactor and said no.

Stinging from its failure in Nicaragua, the United States hastened to try to defuse El Salvador. It is an open secret that the U.S. embassy played a role in selecting the junta that overthrew President Carlos Romero in October 1979. Not surprisingly, it was just the sort of centrist coalition there hadn't been time to put together in Nicaragua.

For a few weeks it looked as though the lion and the lamb might lie down together in El Salvador. The October military-civilian government represented a political spectrum ranging from the conservative military wing under José Guillermo García to the Social Democrats under Guillermo Ungo, with a healthy contingent of Christian Democrats in between. The presence of liberals like Ungo and the young Colonel Adolfo Majano lent the junta international prestige and implied that it might succeed in carrying out some measure of reform. The massive leftist organizations, which had protested Romero's military regime with a series of marches, strikes, and occupations, halted their activities and adopted a wait-and-see attitude.

But the moderates within the new government found themselves unable to either control or answer for the abusive behavior of the military and paramilitary organizations, which seized on their mandate to enforce land redistribution as an opportunity to exterminate political opposition. Christian Democrats and Social Democrats were targeted along with members of leftist organizations. Most of the moderates connected with the new government felt they had no choice but to resign, which they did, in several waves, between January and May.

Ungo and the Social Democratic Party joined the opposition united front early this year. The Christian Democrats split, one faction joining the united front, the other standing by the two Christian Democrats who remained in the junta. Young Colonel Majano also remained, but increasingly played the role of the wild card. In May he antagonized the ultra-Right by breaking up an attempted coup instigated by the terrorist leader D'Abuisson. Significantly, the military refused its support: D'Abuisson, who had been jailed, was freed immediately, and Majano was stripped of his military command. The Cuartel San Carlos, an army base where most of his support had been concentrated, was shaken up and packed with conservatives. Majano spoke of resigning, but didn't; despite the setback, he still thought he might be the survivor on the junta. According to one U.S. embassy official, "The right-wing military types say that if Majano goes, the Christian Democrats go; if the Christian Democrats go, the Yankees go, and the military is left holding the bag."

> 'We need that oil out of Venezuela, Mexico, Guatemala,' said a U.S. embassy official bluntly.

MAJANO HAS WHAT must be the most interesting and the least desirable job in the hemisphere right now. The colonel is considered the intellectual of the junta (he was once national chess champion) and has made some calculated but nervy moves. Although a U.S. deputy assistant secretary of state recently estimated that left-wing terrorists were responsible for two thousand of the five thousand political murders in El Salvador over the last year, Majano publicly called right-wing terrorist organizations responsible for "80 percent" of the political violence—the kind of statement that has gotten many of his countrymen killed. He has sent representatives to open a dialogue with the Revolutionary Coordinating Committee, made up of the heads of the leftist organizations. And he has been flown down to discuss his future with General Omar Torrijos, an old military-school friend and the de facto ruler of Panama. At the same time, Majano has remained an active member of a government whose brutal policies, with or without his approval, are characterized by the massacre at the Río Sumpul.

Since January, El Salvador's alphabet soup of political organizations has boiled down into basically two sides (although there is still some infighting within each camp). One includes the government, the paramilitary groups, and the ultraconservative front (the FAN); the other is best represented by the Revolutionary Democratic Front (the FDR), which includes the moderate parties and the leftist organizations. Neither has the upper hand, and in the months to come, international support for one side or the other may greatly affect the outcome of the confrontation.

Venezuela and Mexico, two of the most influential backers of the Sandinistas, find themselves supporting opposite camps in El Salvador. Venezuela's Christian Democrats, who came to power by a scanty and precarious margin last year, have declared themselves knights-errant for the Salvadoran junta, even though the junta's Christian Democratic credentials are less than credible. Mexico, on the other hand, has provided a base of support for the FDR—partly out of sympathy, and partly, it seems, out of sheer delight in baiting the junta's prime backer, the United States. Mexico's support for the Frente has become even more pronounced since August, when Ignacio Rodríguez, a reporter for the prestigious Mexican daily *Uno más uno,* was shot in cold blood at a roadblock by a uniformed Salvadoran soldier. The killing shocked and angered the Mexican public, just as ABC correspondent Bill Stewart's on-camera death in Nicaragua turned public opinion against Somoza in the United States.

The Frente has received official recognition from the Socialist Party in France and some crucial funding and support from Helmut Schmidt's party in West Germany (despite heavy U.S. pressure on the Germans to support the junta). These groups were strongly supportive of the Sandinistas before their victory in July and have contributed substantial amounts of aid to the new government; they tend to see their endorsement of the Salvadoran FDR as a logical continuation of that policy.

The Israeli-Palestinian tug of war seems to have been similarly extended. The Stockholm International Peace Research Institute reports that between 1972 and 1977 Israel supplied 81 percent of El Salvador's military imports—accounting for 15 percent of Israel's total military exports over that period. These included twenty-five Arava aircraft and large quantities of Uzi submachine guns and Galil assault rifles. Figures for sales since 1977 are more difficult to come by, but stevedores from El Salvador's major port of Acajutla

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have seen large shipments of arms and aircraft arriving on Israeli vessels a number of times in the past year. The Palestinian involvement in the Salvadoran opposition has included arranging large purchases of arms and aiding in training activities.

THE UNITED STATES is stymied as to how to proceed in El Salvador, and the present policy isn't expected to do more than buy time. The Carter administration's unspoken prayer, with a particularly tough election coming up, was that neither Carter nor the Democratic Congress would have to explain the "loss" of El Salvador as they have had to answer for "losing" Nicaragua, Iran, and Afghanistan. And the Department of State, which is not always immune to the old imperial worldview, has its own reasons to fear "defeat" in El Salvador. As one U.S. embassy official in Guatemala stated quite bluntly: "What is our stake in El Salvador? El Salvador is a key to the Caribbean basin, and the Caribbean basin is the key to our energy crisis. We need that oil out of Venezuela, Mexico, Guatemala. Our ability to keep the Soviets out of Central America is going to determine how many cars the American public can afford to keep on the road over the next twenty years."

This kind of thinking is reinforced in Washington by a well-oiled complex of public relations, legal, and lobbying machinery that has long attended to the broader interests of the Latin American Right. Its most flagrant display of influence-wielding in recent memory was the illegal visit of Major D'Abuisson to Washington last July 1.

D'Abuisson is a former army chief of intelligence whose methods of information-gathering relied heavily on the use of torture. He is perhaps best known in El Salvador for reading off right-wing terrorist hit lists on television; many of those named who did not leave the country would be killed in the following weeks. When D'Abuisson was arrested for plotting the abortive May Day coup, he reportedly produced a piece of paper with a list of names on it and, claiming that five U.S. senators were among them, promptly swallowed it. During his brief stay in prison, his wife led a group of ardent supporters in a demonstration in front of the residence of U.S. Ambassador Robert White; they expressed their displeasure by blocking the ambassador's drive with a Volkswagen bus, building a bonfire in his front yard, and depositing a stray corpse on his doorstep.

Probably because of his role in the coup attempt and his direction of the terrorist group Union Guerrera Blanca, D'Abuisson's U.S. visa was revoked. But visa or no visa, he entered the country through the Miami airport without incident and proceeded on to Washington, where he was squired around the Capitol by members of the American Legion and held an open press conference at the American Security Council.

The council, a hawkish lobbying group whose membership includes many former military officials, has a longstanding interest in Central America. In December 1979 it sponsored the visit of retired General Daniel O. Graham to Guatemala, where he urged Carter to give more open and direct support to the military dictatorships of Latin America. Recently Graham returned to Guatemala, as well as to El Salvador, Honduras, Argentina, and Chile—this time under the aegis of presidential candidate Ronald Reagan. Graham, one of Reagan's foreign policy advisers and the former director of the Defense Intelligence Agency, told right-wing military factions in these countries that as President, Reagan would "abandon the policy of throwing our old friends to the wolves to get along with Peking and Moscow."

On an earlier visit to Washington last April, D'Abuisson managed to set up an appointment with Robert Pastor, who is in charge of Latin American affairs at the National Security Council. The arrangements for this visit were the responsibility of MacKenzie, MacCheyne, Inc., a public relations firm headed by Argentine Ian MacKenzie. A few weeks later MacKenzie succeeded in placing an op-ed piece on El Salvador in the *Washington Star* that advised the Carter administration to "stop outdoing Castro in Central America." Until last year MacKenzie's outfit was a major component of Somoza's massive public relations and lobbying operation in Washington. In the three-year period before the dictator's fall, Nicaragua paid the firm nearly a million dollars in fees and expenses. This year it has had to make do with a less lucrative but still substantial contract from the "Guatemala Freedom Foundation," and $7,000 a month from the "El Salvador Freedom Foundation," headed by Orlando de Sola, a member of that country's ruling "fourteen families." The Washington law firm of Patton, Boggs, & Blow complements MacKenzie's activities with its own work on behalf of the Central American Sugar Council and Guatemala's Amigos del Pais (a right-wing cultural and political organization), which it "advises on all administrative and

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legislative developments, Congressional representation, and executive liaison." Former Peace Corps director Joseph Blatchford handles the El Salvador account for his law firm (Berry, Epstein, Sandstrom, & Blatchford), which got $45,000 from the Salvadoran government in 1979; it also takes in $4,000 a month from a Salvadoran business group that is supportive of the junta.

Not surprisingly, the right-wing Central American lobby has cultivated some powerful friendships on Capitol Hill.

> Parents took their children to see the five dead boys as a Sunday family outing.

These include Senator Jesse Helms (R-N.C.), Representative Robert Bauman (R-Md.), and the same congressional cadre that so effectively prolonged U.S. support for Somoza and watered down the Panama Canal treaties—notably, Representatives Larry McDonald (D-Ga.), Charles Wilson (D-Tex.), and that now famous beneficiary of Abscam, John Murphy (D-N.Y.). All of these gentlemen have supported the provision of arms to the Salvadoran military.

The Carter administration, faced with such well-orchestrated opposition and unable to break the stalemate in El Salvador, moved quickly to cut its losses in Honduras and Guatemala. Honduras was encouraged, if not pushed, to hold elections for a constituent assembly last April. The victory of the Liberal Party has been cited as proof of Honduras's status as the "democratic bastion of Central America," despite the fact that military dictator Policarpo Paz García remains fully in control (after the elections, Paz promptly extended his "provisional presidency" by another eighteen months). Nonetheless, the United States places much hope in Honduras, and has rushed $5 million in arms aid and $500,000 for military training to the country for fiscal 1981; there are reports that fifty U.S. military advisers were sent there in late August. Armed revolution does not seem to be an immediate prospect for Honduras, but control of its borders—which touch on Nicaragua, El Salvador, and Guatemala—will be a decisive factor in the guerrilla warfare to come.

GUATEMALA IS BOTH a thornier and a more explosive situation. The regime of General Romeo Lucas García has been remarkably bloody, even by comparison with his Central American neighbors: Right-wing terrorists are estimated to have killed two thousand people in the last year alone. Elias Varajona y Varajona, a member of Guatemala's Guerrilla Army of the Poor who had infiltrated Lucas García's government and become the chief press aide to interior minister Donaldo Alvarez, recently held a sensational press conference in Panama at which he reported that Guatemala has hired five thousand mercenaries to repress leftist movements and support future intervention in El Salvador. Varajona also claimed that the Pentagon has helped Lucas García obtain arms, training, and technical aid from Israel, Chile, and Argentina. In recent years military coalitions have formed between guerrilla groups and the long-abused Indian populations of the Quiché province, and earlier this year student, labor, Indian, and church organizations joined forces in the Democratic Front Against Repression to seek international support in the same arenas as the Salvadoran Frente.

Last June the United States ditched its old Guatemala policy—along with ambassador Frank Ortiz, on the grounds that the silky career diplomat has been too close to the Lucas García regime. The Carter administration's earlier response to the situation in Guatemala had been to fly down a U.S. public relations team, which hinted to the general that if he really wanted to improve his image in the international press as a democratic figure, he shouldn't wear his uniform all the time. Lucas García ignored the advice. Now, according to Guatemalan sources, Washington is exploring the possibilities of a coalition made up of Christian Democrats and moderate sectors of the armed forces. It could perhaps be headed by Francisco Villagran Kramer, who resigned the Guatemalan vice-presidency in early September and moved to the United States to "promote human rights" from his self-imposed exile.

It looks as though U.S. policy makers still can't see the plain lesson of El Salvador. For the United States to step in and impose "moderate" regimes with no popular backing will only prolong the bloodletting—by both left and right—in Central America; it's scarcely preferable to openly supporting the right wing. The answer is to support *no one,* and to actively discourage other nations from intervening as well. Then the region might be able to find its own political equilibrium. If the lesson is ignored, Central America will become yet another international battleground, and violence—already pervasive—will become a way of life.

The process was well underway when I visited El Salvador last summer. One Sunday we went to see the five dead boys. They had been found on a road outside the brick factory in Ayutuxtepeque. One rumor had it that they were members of one of the student associations, dragged out of their houses in the early morning, tortured and killed by the paramilitary, the national guard, or the police. Another rumor was that they were guerrilleros who had faced off with the government forces and lost. The latter seemed doubtful; around three o'clock that morning some of us had awakened to a few short bursts of gunfire from that direction, which seemed to signal an execution. One doesn't know for sure. In El Salvador the gunfire and bombings take place nightly and in the sleeper's head become indistinguishable from traffic, thunder, and the materiel of his own nightmares.

There was a crowd of about thirty gathered around the bodies at the town hall. Officially, they had been laid out to give their relatives the chance to step forward and identify them. Unofficially, someone whispered, it was to impress upon the people the consequences of political activity. Whatever the intended purpose, the effect was quite different: Parents were taking their children to see "los muertos" as a Sunday family outing. The faces, apart from those of mourners and old women, were neither shocked nor sorry, merely curious. Death has worn people down. "It never used to be like this," said one young girl. "A couple of years ago if someone got shot in a lovers' quarrel it was all over the front pages and everyone was talking about it." Now, the papers have no room. With the great frequency and numbers of the political dead, with the mystery of shots and bombs in the night, the tension of maintaining such a level of interest would be unbearable. One becomes casual. Perhaps the most horrific thing about the horror is the way they've gotten used to it. ❏

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ROPES OF SAND, America's Failure in the Middle East, by Wilbur Crane Eveland. W. W. Norton, 382 pp., $14.95.

A sand trap for the CIA

VICTOR MARCHETTI

EVERY NOW AND THEN A book comes along that is singularly informative, meaningful, and timely. *Ropes of Sand*, the story of the U.S. government's overt and the CIA's covert interventions in the Middle East since World War II, is such a book. The author indicts the myopic and ultimately self-defeating policies for dealing with Arab nationalism (as well as the Arab-Israeli problem) that have helped to botch our relations with the entire oil-rich area—possibly beyond any chance of lasting repair.

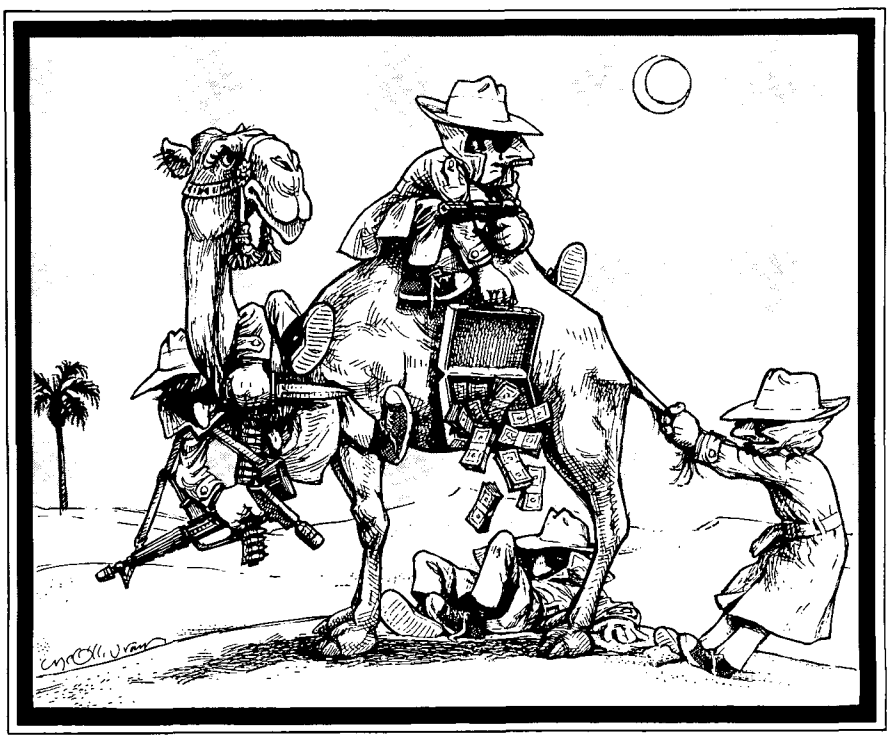
Wilbur Crane Eveland, who was at one time a top-level CIA undercover agent, is highly qualified to have written this fascinating, revealing, and honest book. Not only is he an expert on Middle Eastern affairs and a man with a strong sense of historical perspective, but in his clandestine days, largely during the 1950s, he usually operated under the direct orders of Allen Welsh Dulles, then the head of the CIA—and occasionally those of his brother John Foster Dulles, secretary of state at the time. In carrying out his secret missions, the author often dealt personally with the highest political leaders in the Arab world. He also engaged in all the dirty tricks of the intelligence "community"—from spying to manipulating and bribing local politicians to fixing elections and supporting *coups d'état*; most of them came to naught in the end and some backfired badly.

Yes, Eveland admits, he is partly to blame for creating the mess in the Middle East. He maintains, however, that others are even more guilty, namely fanatical ideologues like the Dulles brothers, and the CIA professionals whose bureaucratic ambitions superseded all sense of logic and justice. There were other culprits, too—Presidents, Congress, and special interest groups like the Zionists and, in a different sense, the big oil companies. But now, as he reflects on the undercover games he played, he sees the folly of it all, and wants to share both his misgivings and his thoughtful insights with the American public.

The CIA, of course, attempted to block the publication of this very embarrassing memoir. And with good reason. *Ropes of Sand* is a devastating firsthand account of how the CIA really works. With numerous examples the author illustrates his thesis that the primary purpose of this clandestine agency is not at all the collecting of intelligence for the benefit of the policy makers and planners, but rather, the manipulating of the internal and sometimes the foreign affairs of other nations.

He also shows how this interference works only to create suspicion, distrust, and often violent reactions to the goals the U.S. government officially espouses, undermining belief in the American system and our own political values. In the Arab world, we are no longer the good guys—as we were, more or less, up until 1945. Now we are perceived to be just as bad as the old colonialists, Britain and France, and no better than our major competitor, the Soviet Union—just another player in the game of nations. As a result, the author warns, in the future the American public can expect to pay even more dearly for the actions of our government than we have already—a gloomy, but probably accurate prognosis. No wonder the CIA did not want this book to be published.

Despite the agency's efforts, however, Wilbur Eveland got into print. He was too determined and too clever to be stymied by the usual governmental trickery used to circumvent the First Amendment rights of ex-CIA officers who dare to speak out and inform the public of the agency's blunders. No unconstitutional secrecy agreements he may have made



BRUCE MCGILLIVRAY

VICTOR MARCHETTI is a former CIA officer. The CIA and the Cult of Intelligence, *which he coauthored with John Marks, was the first book ever censored by the CIA prior to publication.*

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were going to prevent him from having his say. Nor was he about to be caught up in the crazy quilt of court decisions intended to silence, censor, or financially punish CIA critics for no better reason than to avoid disclosure of the agency's and the government's misdeeds. He has managed to stay one step ahead of the new laws now being passed by stampeding congressmen who think the country is swinging to the right. In the process he discovered a nifty way to challenge the CIA's infamous secrecy agreements, and in so doing he worked a brilliant sting on his former employers—much to their chagrin.

AFTER YEARS OF LARGELY unsuccessful Freedom of Information Act and Privacy Act suits against the agency to recover his personal files, in February of this year Eveland informed the head of the CIA, Admiral Stansfield Turner, that he had written *Ropes of Sand* and that it was then being readied for publication. He also advised the admiral that his publisher had already distributed the galley proofs to the news media and, for that matter, to various commercially interested parties. The CIA was caught off-guard. The agency thought it had closed the door on books appearing without official approval. After all, when Frank Snepp published his *Decent Interval,* based on unclassified materials but unauthorized and highly critical of the agency's debacle in Vietnam, for his pains he was then legally mauled and financially penalized, via a decision by the Burger Court. Immediately thereafter, for good measure, the CIA forced John Stockwell, whose book *In Search of Enemies* exposed the agency's bumbling adventures in Angola, to sign a consent agreement that followed the guidelines implicit in the Supreme Court's gagging of Frank Snepp.

We can be sure that the CIA will use Eveland's book in its campaign for a 'national secrets' law.

So, how would anyone dare to publish without the CIA's approval? Even Kermit ("Kim") Roosevelt, the chief honcho in the agency's *coup d'état* in Iran in the early fifties that put the shah back on the throne, was pressured earlier this year into withdrawing his clandestine memoirs from publication. This after McGraw-Hill had printed 7000 copies, many already on sale all over the country. Well, Wilbur Eveland dared, and he had an ace up his sleeve.

It took the CIA almost a month to gather up its fallen bureaucratic trousers. In March, its lawyers told Eveland that the agency claimed the right to review and censor anything written by him on the subject of intelligence because of his former association with the CIA. The secrecy agreements he had signed, they said, legally bound him to submit all his writings for approval. The author had in fact entered the intelligence profession prior to World War II—long before the CIA was created—as a member of the army's Counter Intelligence Corps; he later served as a military attaché and in other capacities as an army intelligence officer. He challenged the CIA to produce any secrecy agreements he may have signed while working undercover for the agency.

The CIA's response was incredible. Its lawyers claimed the agreements were too sensitive to be shown to him. Nevertheless, Eveland sent the agency a few chapters of his book, those dealing with the years when he worked for the CIA. The agency's lawyers responded in April, declining to review the material and saying that anything they censored at that point would only underscore for the public those matters and details the CIA felt were still classified. With that, the author proceeded to publish *Ropes of Sand* without agency approval.

It remains to be seen whether the CIA will attempt to financially punish Eveland as it did Frank Snepp and John Stockwell, thereby drawing unwanted attention to his book and providing him with free publicity, or whether it will ignore the book as it did in the case of another former officer, Joseph Burkholder Smith (*Memoirs of a Cold Warrior*). But we can be sure the agency will use *Ropes of Sand* in its campaign in Congress to have a "national secrets" law passed that would not only completely gag former officers but also limit what the press and publishing industry could print regarding the CIA. Already, the agency has established the right to review and censor even *fiction* written by ex-officers, and the Intelligence Identities Protection Act, which is on the agenda for Congress, could subject journalists to criminal prosecution for disclosing even certain kinds of unclassified information obtained from unclassified sources. It is not "national security" the CIA is seeking to protect, but its own hide, through laws that will amount to an American version of the Official Secrets Act—or worse.

ROPES OF SAND IS FULL of facts and details, many of which the U.S. government has managed to keep secret from the general public until now. After reading the author's revelations, one can only wonder why the information is supposedly so sensitive. These "secrets" are embarrassing—especially to the government officials and CIA professionals who were involved in these blunders that constituted America's failure in the Middle East.

Eveland recounts how he helped to fix parliamentary elections in Lebanon in 1957, and was planning also to fix the presidential election, scheduled for the following year, on behalf of President Camille Chamoun. But in the 1957 election, the CIA had helped elect so many pro-American candidates that the established Arab nationalist politicians were furious, realizing that the cheating was eroding their power base. Partially as a result of this, the feud that had been brewing between Arab nationalists and

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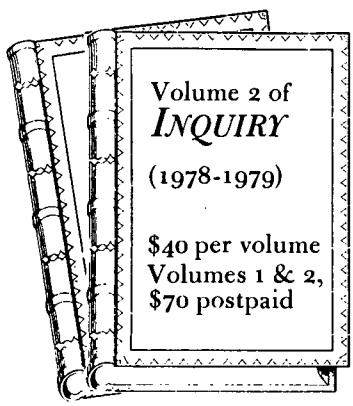

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the pro-Western Christians erupted into civil war. President Eisenhower sent in the marines; they were withdrawn after a few months, but what had been perhaps the most stable state in the Middle East was on the road to total polarization and eventual disintegration.

We also learn of the CIA's incredibly clumsy handling of Gamal Nasser in the 1950s. Nasser, on the verge of becoming Egyptian head of state, was offered a token package of weapons to help maintain some sort of military balance with Israel—and some CIA under-the-table money as well. Nasser met with Eveland clandestinely and in shirtsleeves in the Cairo suburbs. He turned down the paltry arms offer, but accepted the CIA bribe—using it to erect a monument on an island in the Nile which soon became popularly known as "[Kim] Roosevelt's penis." Afterwards, Nasser converted the radio station the CIA had built for Egypt, the Voice of the Arabs, into an anti-American propaganda machine, requiring the CIA to build another station elsewhere in the Middle East to counter its own creation.

Eveland also tells how he once delivered an automobile trunkful of laundered money to the head of a group of opposition politicians in Syria who were preparing to overthrow the existing regime. Unfortunately, the day of the planned *coup d'état* in 1956 was also the day that the Israelis invaded Egypt, which threw the entire Middle East into temporary chaos—including the Syrian coup attempt. The irony of this failure was that the CIA, which had been helping to finance the Israeli intelligence service, the MOSSAD, was never informed of Tel Aviv's surprise attack. So much for good friends. But, as the author notes, the Israelis are masters of the double-cross. They stole the West Bank from Jordan when King Hussein, then in the CIA's pay, was under instructions not to get involved in Israel's 1967 war with Egypt and Syria. The Hashemite king never fully trusted the CIA after that humiliation. (That was the same war in which our Israeli allies brutally shot up the U.S. spy ship *Liberty*, killing more than thirty American sailors.)

These are but a few of the tales the author has to tell. There are many more in *Ropes of Sand*. Read the book, learn, and think about the facts presented. But remember the CIA is only a tool. The real culprits are the ill-informed, power-seeking politicians in Washington and the fanatical and greedy special interests—as well as, sad to say, the gullible and apathetic American public. ❑

***THE WRITER ON HER WORK*, edited and with an introduction by Janet Sternburg. W. W. Norton, 265 pp., $14.95.**

Mothers and moderns

MEREDITH MARSH

DO YOU COMPUTE THAT you will ever think like a human being?" a scientist asked her giant computer late one night over coffee when the day's business was done. With that the great machine began to buzz and burn its red light so hard that it seemed in danger of bursting; then very slowly, an answer emerged on a tiny slip of paper. The excited scientist snatched it up to read: "That reminds me of a story. . . ."

Anthropologist Gregory Bateson, from whom I borrowed that parable, calls a story a "little knot of relevance." My dictionary calls it a "connected series of happenings." On the day when we can pinpoint what relevance and connection mean, we will be much closer to understanding how we understand our world. Positivists, behaviorists, and tough-minded literary "modernists" have declared a mental process such as "understanding" off-limits because we cannot tag it like a migratory bird to measure and predict its habits; yet that has become quite an amusing story in itself, all those men writing so solemnly to each other about the impossibility of understanding, the loss of a shared meaning. "What we cannot speak about we must pass over in silence," Wittgenstein mourned, in a way contributing to a climate that inspired whole feasts of conversations as diverse as B. F. Skinner's and Donald Barthelme's.

Psychoanalysis assumes that we are shaped first by the stories our parents swaddle us in, which we change to fit ourselves and then change ourselves to fit as we go right on wrapping them around friends and lovers who keep returning the favor. While our favorite stories often turn into neurotic cages for ourselves and the people we care about, without them we could not connect at all. Narrative not only connects the swarm outside us to the one within; it also lets us say to a friend, "You felt that way too? It meant the same thing to both of us? Then on this important matter, we are of one mind!" Or, just as valuable: "You felt like *that*? How strange. But now I know you so much better than before."

The best times of my life have sounded like that, even the silent ones. Yours too?

We label it "communicating," of course, and we do it all through the business of the day and later over coffee, and much later, if we are lucky, in our beds; and people who do it badly are lost. Doing it badly and getting lost has been the story of our times, the great modernist saga of alienated man in a world that lost its bindings under the stress of nonstop change and technological giantism. When Kafka told it to us in the shadow of the concentration camps it actually made us feel better, because it always warms our hearts to discover "You too?" even in a nightmare. But by now we should ask whether the grand old solipsistic tale has not become a self-fulfilling prophecy, a dream that keeps coming true and cutting us off from one another, like a cage. Modernism has given us some comforting and even seductive ways of being lonely. This, I suspect, is what John Gardner means when he begs for a return to "moral fiction." Yeats was right, the center did not hold, but some interesting things are happening on the sidelines.

One of them is feminism. In the early seventies women came together in small groups to talk with candor and focus about our lives, in the belief that out of this personal story-telling would come more general truths as well as a sense of community. Of course women have always "gossiped" in this way, and their gossip has always been recognized as powerful and dangerous; feminism was only trying, in a diverse and mobile society, to organize the community—weaving that used to occur as a matter of course in kitchens or out on the stoops. As custodians of relationships, women have always told stories to bind friends and families together in the face of conflict and change.

This absorbing collection of essays by women novelists and poets—plus a playwright and biographer—on the process and effects of writing led me to wonder if their concern for relationship will eventually recast modernism, with its dog-

MEREDITH MARSH's latest novel is Eating Cake. *She lives in Palo Alto, California.*

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mas about the marooned individual. Certainly it's clear that only one of these writers can put relationship out of mind for much longer than a page. In the recent past women were virtually run out of town for pursuing work as egotistical as art, so for us the mere act of walking into "a room of one's own" still echoes with significance. Shutting the self in and the world out means shutting out loved ones, too, and the whole noisy swarm that inspires books in the first place.

IS ONE'S OWN ROOM A cloister, these women ask. A tomb? Pandora's box? the pilot's seat of vision in an airplane? What will finally emerge—a glassy reflection in a mirror? an embrace? bombs? Writing can be a turning in upon the self that rivals madness (a theme for a number of these writers) or a reaching out to others that can help build the communities that are of particular importance to the Third World women here. Modernism praised art as individual expression to the point of sneering at the desire to teach, to lay on healing hands through words and in

turn to be heard and held, that has also been a part of the tradition. In a word, modernism exalted self-expression over communication, but it is the latter that fascinates all but one of these women.

For Toni Cade Bambara writing is a way to serve and inspire the community, and she deliberately calls herself a "message writer," although she knows the term is anathema to modernist critics. In her life as an activist, she has been able to carry her short stories with her like a picnic hamper, full of varieties of sustenance; it was not until she dug in to write a novel that she began to suffer the paradox of locking herself up alone for long stretches of time in order to reach more people. Stories are a portable craft, she suggests, whereas "the novel is a way of life."

By far the saddest piece in this book is a patchwork from twenty years of journals by Michele Murray, a critic and poet who died at the age of forty-one after writing that hers was "the submerged life, unknown as far as poetry is concerned," by which she meant the mute repetitions of motherhood and housekeeping. A quest for purity and depth of experience first led Murray to Catholicism and a large family, yet the demands of the family soon dragged her away from the purity she came to associate with art. It is painful to watch her oscillate guiltily between an asceticism that would separate her from people and the ambition to be seen and heard, all the while feeling guilty for living in the 1950s suburbs. She could not win. The competing goals that batted her back and forth like a shuttlecock for two decades until the approach of her death ("I, who have always hated my body, now am justified") are familiar to too many women and men.

Novelist Anne Tyler, also a busy mother but one who lives in more forgiving times, is less romantic about individuation as well as self-sacrifice. She tries like her admired father to sail gracefully through choppy days saying, "Oh, so *this* is where I am!" Her splendid essay evokes the acceptance, the alert passivity that is so central to art and to loving, plus the fierce determination to have a say in things.

Muriel Rukeyser learned how important poetry was to her in high school when a friend threatened to stop talking to her unless she stopped writing. Both forms of silence were the worst punishment Rukeyser could imagine, then and throughout her life. Indeed so inseparable were friendship and art for her that she would later say, "The force is in our wish to share something of our experience by turning it into something and giving it to somebody: that *is* poetry."

Joan Didion is the exception I alluded to before. As always, her voice is as solitary, clipped, and romantic as Hemingway's. She is the most honest about the aggression in writing but the least interested in the ways that even a shout aims at connection. She never mentions other people. As modernist in sensibility here as elsewhere in her work, she speaks only of her quest to discover self by engraving words on the empty white spaces that enthrall her. Although her sentences are as beautiful as ever, I always find myself trying to peer around or behind them to find all the hum and buzz that she prunes out to make them so clean, the hum and buzz of other people's often bothersome voices that, to me, are finally what makes any sentence and story worth trying to understand. ❑

WORLD'S END AND OTHER STORIES, by Paul Theroux. Houghton, Mifflin, 211 pp., $9.95.

A roving ear

JOHN GORDON

ON PAGE 41 OF THE STORY "Yard Sale" in Paul Theroux's new collection *World's End and Other Stories*, a middle-aged female narrator refers to her young nephew's father as his "old man." On page 180, in a story called "The Greenest Island," set in Puerto Rico at the time of General Trujillo's assassination in the nearby Dominican Republic, we hear of "the filming of *Lord of the Flies* on Vieques Island, a few miles offshore." These are two false notes. "Old man" used as a synonym for "father" seldom occurs in the speech of women, except perhaps for the very young. The movie *Lord of the Flies* was not released until more than two years after the Trujillo assassination; I don't have access at the moment to back issues of Puerto Rico newspapers, but I doubt very much that it was being shot in May 1961. In 1961, almost no one had heard of the book.

I pick these nits because they are the only ones I can find. *World's End and Other Stories* is a sequence of such details, and the rest ring true. They are reminiscent of the pains John O'Hara used to take over which of his characters would be likely to say "half dollar" and which likely to say "fifty cents." By coincidence your reviewer happens to have been in Puerto Rico in the early sixties. Now "The Greenest Island" reawakens memories buried for almost twenty years: Yes, that is the way it was there then. The best of these stories, compounded as they are of such recognitions, get the reader's yes-yes machine going to the point that he is willing to believe, as most readers of fiction have always wanted to believe, that he is learning something as well as being entertained.

That is especially important to this book, because clearly its plan is to make us feel ourselves in the presence of a kind of omniscient pointillist. The book is about people living all over the world—

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Puerto Rico, Tahiti, France, Africa, London—and particularly about the explosions and implosions that occur when they come together. Theroux writes about an English schoolgirl staying with the family of a French farmer, about a Peace Corps volunteer returning to Cape Cod after a hitch in Tahiti, about an American State Department careerist in Africa carrying on affairs with a woman from the local tribe and a scion of the local white gentry, about an American English professor tracking down regional poets in the wilds of England. At almost all points he is well served by both his eye and his ear. Here for instance is the comment of an English handyman on one of the American professor's regional poets:

While everyone else has been swotting up on Faulkner and Woolf, Theroux has been reading Saki and Dahl.

"It's rubbish," said Ralph. He recited in a lilting voice, "'I was walking down the road. I seen two cows. The sky turned green. My uncle don't like me. Oh-oh-oh. I remember them cows. Hum-hum-hum. My heart she's shaking like a big fat drum.'"

Each story makes it clear, without rubbing it in, that the author knows what he is writing about, that he has been there and heard and seen such things. Of Theroux's fourteen earlier books, two have been travelogues, one a study of an Anglo-Indian author, and several others set in exotic surroundings. The dust jacket shows a tall young man in a modish continental suit and tells us that he "divides his time between London and Cape Cod." In perhaps the best of the collection's stories, "Words Are Deeds," a Massachusetts academic, scrutinizing a waitress in a Corsican restaurant, sounds like an embodiment of the sharp-eyed and imaginative young man standing somewhere behind all these stories:

She had small shoulders and almost no breasts, and slender legs, and her hair was cut short. He spoke to her about the food, but only to detain her, so he could be near her. She smelled of lilies. She brought the wine; his meal; the dessert—fruit; coffee, which her husband—almost certainly her husband—made on the machine. And each time, he said something more, trying to grow intimate, to make her see him. He had no clear plan. He would not leave the town without her. He was due in Ile-Rousse that night. She wore a finely spun sweater. She was not dressed for a restaurant: she was no waitress. Her husband owned the place—he forced her to help him run it. Sheldrick guessed at these things and by degrees he began to understand that though he had only happened upon her, she was waiting for him.

From such calibrated mutations of observation into fancy are these stories created.

With the recent publication of Paul Fussell's *Abroad*, following as it does the appearance of well-received travelogues by Bruce Chatwin, Ford Maddox Ford, and Theroux himself, it seems that an ancient and honorable genre is being returned to favor. Nineteenth-century scholars demonstrated that the *Odyssey* was a kind of travelogue about real places, and of course the superb reportage of Herodotus is at least halfway to fiction. In our own century, it is difficult to think of a major literary work which does not have its resident *genius loci*, which does not owe a good deal of its power to the illusion that is putting the reader in touch with the spirit of some alien place. Readers will enjoy *World's End* because in its own less ambitious way it constantly gives that illusion.

They will also enjoy it because, apart from the collection's global reach, most of the stories are good ones. Theroux is evidently as much a connoisseur of authors as he is of places. While everyone else these days has been swotting up on Faulkner and Woolf, he has been busy in the stacks with Saki, Lord Dunsany, Thomas Burke, John Collier, and Roald Dahl. The best of these stories are in that tradition—they are *stories*, and the reason I haven't told any more about them is that I don't want to spoil them for you. ("Words Are Deeds," for instance, has about the best last line imaginable, now revealed in Anatole Broyard's *New York Times* review. Shame.)

Some qualifications are necessary. Theroux is a professional, and the average level of these stories is high, but some are of course better than others. The best ones—"White Lies," "Words Are Deeds," "The Odd-Job Man"—are crafty little mechanical thingamabobs humming and ticking away in the highest Edwardian tradition of parlor fiction. The weaker ones—"Yard Sale," "Zombies," "Volunteer Speaker"—err in the direction of shapelessness rather than trickiness. Incidentally, I note in passing that "Yard Sale," the only real clinker in the collection, was also one of the two stories that appeared first in the *New Yorker*, and *Mademoiselle* got one of the best. Make what you will of that. ❑

RADICAL PRINCIPLES: Reflections of an Unreconstructed Democrat, by Michael Walzer. Basic Books, 310 pp., $15.00.

One cheer for socialism

DAVID GORDON

FEW AUTHORS MAKE THE task of a critic so easy as does Michael Walzer. His new collection of essays (most appeared previously in the journal *Dissent*, of which he is an editor) advocates, with the author's characteristic argumentative skill, a democratic variety of socialism. Yet with comparable dialectical ability, Walzer undercuts his own case at every fundamental point. A reader bothered by Walzer's collectivist predilections need not concern himself with devising rejoinders: He has only to continue reading, and Walzer, with admirable efficiency, will do the job for him.

A particularly striking example of this penchant for self-destructive discourse occurs in the treatment of the central thesis of his book. Walzer is, as the book's subtitle informs us, an "unreconstructed democrat." He believes that the principles of democracy ought to be extended drastically to include not only political but also economic organization. Quoting the medieval maxim "What touches all should be decided by all," he supports the claim of workers in a factory to participate as a matter of right in the management of their company. The increase of democracy Walzer favors is by no means confined, however, to the area of business. He believes that decentralization of political power is essential: People ought to have a say in the major

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decisions that affect them.

But strangely enough, Walzer is fully aware of an essential argument against the radical extension of political decision making which he advocates. If all key decisions are, in a Walzerian world, made by small groups, life becomes one political meeting after another; an endless succession of political decisions impinges upon each person's efforts to live his own life as he wills it. But then what happens to those citizens who do not wish to attend political meetings? It is unlikely that all people will acquiesce in such a politicization. One way to solve this problem is by compulsion: One can, like Rousseau, favor the elimination of the private sphere altogether. Rousseau once declared, "The better the constitution of a state is, the more do public affairs encroach on private, in the minds of the citizens." Walzer rightly rejects such a busybody's paradise: "Requiring people to attend meetings, to join in discussions, to govern themselves: that is not possible, at least not in a free society."

Walzer's efforts to extricate himself from the corner into which he has so expertly maneuvered himself are at best lame. He rejects compulsion; those who do attend the meetings, he states, should remember that they do not speak for everyone; the views of the rest of the people ought somehow to be reflected. One may anticipate that if the activists are left to their own devices, memory lapses are liable to be frequent.

The problem is not Walzer, but the dogma of socialism to which he has committed himself.

Furthermore, the application of this principle of decision making to the economy would quickly lead to disaster. In a developed economy, the workers in a particular factory—like everyone else—do not and cannot follow their own course in sovereign independence from everyone else. The division of labor, the basis of any economy of more than Stone Age complexity, implies precisely that an individual must coordinate his production with that of innumerable others. As F. A. Hayek has time and again pointed out, the amount of knowledge required to do this is vastly in excess of anything within the conscious grasp of individuals. The mechanism of the market, not incessant political meetings, is the only efficient way of securing this coordination.

THE SOLUTION OF INDIvidual autonomy within a market system has, from Walzer's point of view, a fatal defect. In a free society of the kind sketched above, the welfare state beloved of contemporary liberalism would cease to exist. The bureaucratic compulsory provision of goods and services to those deemed in need of them is, after all, hardly consistent with individual autonomy. Yet to Walzer the welfare state cannot be done away with; the market, he alleges, cannot by its own efforts provide for the needs of the poor. Thus we must not, in his view, seek out a voluntarist utopia; rather, we must accept the proposition that the welfare state is a fact of life, inevitable as well as desirable.

Once more Walzer is his own best critic. He recognizes that the massive bureaucracies of modern welfarism are inimical to just the sort of decentralized decision making he endorses. As he goes so far as to say: "The citizen of the welfare state . . . is not free to shape or reshape the system, for he has not seized and, except in minimal ways, he does not share political power." Nonetheless, in a remarkable leap of faith, Walzer expresses the hope that a means may be found to reconcile the two incompatibles—the welfare state and political freedom. But before endorsing the welfarist bureaucracies, others should take to heart Walzer's own critique and go on to ask why exactly Walzer thinks that the market cannot provide adequately for those in need? His sole argument seems to be that capitalism depends upon the existence of a class at the bottom of the social heap whose purchasing power must be kept low in order not to overload the economy.

But, to continue the argument, on what basis does Walzer assert that such an underclass must exist for capitalism to function? So far as one is able to tell, on no basis whatsoever; Walzer has simply created out of thin air a picture of how a free economy *must* work. Or rather, not entirely out of thin air: One detects in Walzer's discussion traces of that old Marxist bugaboo, the reserve army of the unemployed. Yet if, as a foundation for his socialist analysis, Walzer wishes to assume a dogma of Marxism, he is once again ready to supply a weapon to his opponents. "None of the standard theories," he avers, "accounts for our everyday experience. This is true even of the one that has always seemed to me the most persuasive, that is, the Marxist theory of class conflict." Why then employ a tenet of an admittedly inadequate theory?

The difficulties in Walzer's argument do not indicate any lack of acuity on his part. On the contrary, the fact that the author of so brilliant a piece of social analysis as *The Revolution of the Saints* has been reduced to a state of intellectual schizophrenia strongly suggests that the problem is not Walzer, but the dogma of socialism to which he has committed himself. If, for example, one does *not* insist upon the importance of political control of all aspects of life, does *not* accept the necessity of the welfare state, and does *not* accept Marxism as the closest available approximation of political truth, one can easily escape the pitfalls of Walzer's approach.

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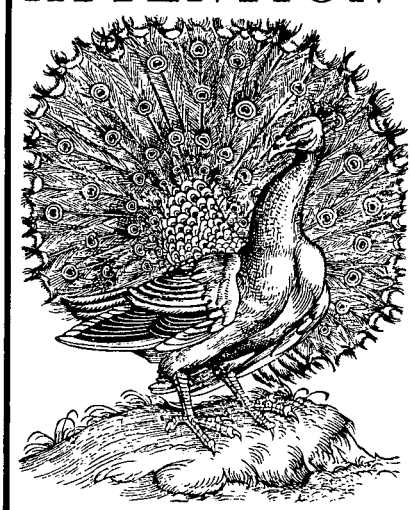

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THAT WALZER CAN BE turned against himself in the fashion suggested raises a fundamental question: Why has he found the case for socialism so singularly compelling as to be worth holding firm to despite the difficulties he has presented? A clue to the answer is provided by the arguments for socialism to be found in *Radical Principles*.

One of the most important of these appears in the essay, "In Defense of Equality." Why, Walzer asks, should those who are skilled at acquiring money be entitled to have a greater command over the goods of the world than their fellow citizens have? For each good there is a natural principle of distribution: For example, wealth has no intrinsic connection with medicine and hence the rich should not be entitled to obtain better health care than the poor.

But Walzer's argument rests on a misconception. He assumes that there is a fixed quantity of medical services, which society must somehow mete out according to a fair principle of distribution. This is to ignore the underlying issue: Who determines how many doctors, as opposed to farmers or bricklayers, there are in the first place? If Hayek is correct, and only the market is capable of efficiently answering questions of this sort, Walzer's problem fades into insignificance. Whether the distribution effected by the market is "fair" by Walzer's unargued-for criterion is a matter of small importance if no alternative system can adequately coordinate the economy.

Another of Walzer's defenses of socialism rests upon a curious premise. He argues that "the capitalist economy proliferates what are plausibly called private governments." By this he of course means large corporations which, in his opinion, should be controlled by those who work in them. (He hasn't much to say about those who consume their products.) Why an organization that cannot compel anyone to have any dealings with it should be termed a government is not obvious. But, as so often, Walzer has anticipated the objection. The claim that "capitalist property rests upon forms of activity that are intrinsically noncoercive . . . may well be true; in any case I will not question it now." Once more, however, Walzer's unerring eye for the fallacies of his own position does not in the least induce him to abandon his socialist convictions.

In reply to his own objection, he imagines a case of someone who has founded his own town. Settlers in the town, Walzer holds, need not accept the founder's political control; similarly, workers in a corporation need not accept the economic control of the owners. Unfortunately, it is not clear from Walzer's example whether, in the imaginary town, the new settlers had agreed to accept the rules of the founder when they purchased their land from him. If they had done so, to one reader Walzer's celebration of the onset of a new political order sounds like the cheering section for mass epidemics of promise-breaking. Furthermore, it is by no means impossible for workers who wish to manage their own factory to try their luck in the market. If they do so, what many will find is that entrepreneurial abilities are not equally distributed throughout the population. One trusts that Walzer would not, in the name of democracy, coerce those factory workers who wish to leave management of the factory to those better qualified.

To sum up, Walzer's professed apologies for socialism provide a very useful source of antisocialist argument. It is a pity that Professor Walzer has not allied his formidable polemic talents with a cause more worthy of them. ❑

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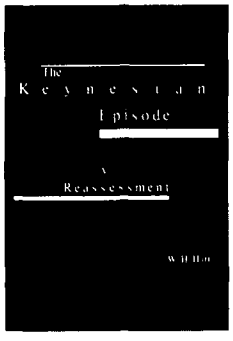

The Keynesian Episode

By W. H. Hutt

An unsparing reassessment of the dominant economic movement of our century. *The Keynesian Episode* looks back to tell us why Lord Keynes' economic doctrines had such great appeal among academics and politicians—with such disastrous results—and looks ahead to tell us how to restore a sound economy. Long a leading critic of Keynesianism, Professor Hutt first attempted to prepare a second edition of his 1963 book, *Keynesianism—Retrospect and Prospect*, but ended up with a new book. The result is a fresh masterpiece of economic history and analysis.

Born in 1899, W. H. Hutt graduated from the London School of Economics and based his academic career at the University of Cape Town. He is presently Distinguished Visiting Professor of Economics at the University of Dallas. Hardcover $10.00, Paperback $4.50.

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FILM

***ORDINARY PEOPLE*, directed by Robert Redford.**

***THE ELEPHANT MAN*, directed by David Lynch.**

Just folks

STEPHEN HARVEY

IT IS CURIOUS THAT WHEN dealing with a certain kind of film, a pernicious form of cinematic anemia is praised for its integrity and sincerity, as if these were nearly as important as excellence. Should a film maker dare to be pedestrian in a tasteful, high-toned way, he's likely to get Brownie points from critics, and moviegoers may rush in precisely because they've been told that said movie refuses to pander to them in any manner whatsoever. It's helpful if through either ineptitude or design all trace of visual verve is excluded lest this distract from seriousness of intent. Better yet, confine the *mise en scène* to a succession of fuzzy medium-shots of talking heads with furrowed brows, nodding toward a portal marked Understanding. Such by definition constitutes adult moviemaking, since who but a grown-up would sit still for two hours of this?

The director and screenwriter are also well-advised to confine their cast of principals to identifiable "real" people, assuming members of white nuclear families are by definition the most genuine. And what poignant realism if the message is that no blood relationship is permanently askew, no family member unredeemably misunderstood; all they have to do is get in touch with their feelings and reach out and give each other a big hug.

Earlier this summer, *The Great Santini* was everyone's nominee for the Jean Hersholt Humanitarian Award. It inspired the comforting fable that a son's natural form of rebellion against a tyrannical though well-meaning macho father is to become a slightly more sensitized replica of same. Now *Ordinary People* is being widely acclaimed as this year's *Kramer vs. Kramer*. In fact they do have their superficial similarities: Both are small-scale, low-key domestic dramas with their respective familial crises accompanied over the soundtrack by tasteful snatches of classical music (*Kramer* doted on Vivaldi; *Ordinary People* opts for Pachelbel). There, as far as I'm concerned, the analogy ends. *Kramer* was graced with supremely accomplished craftsmanship in every department, a script that refrained from scoring easy emotional points at the expense of either antagonist, and the awareness that a movie dealing with a rousing contemporary issue can still be witty from time to time.

Ordinary People's main distinguishing feature is its urgent sincerity. All the toil and good intentions that Robert Redford has invested in his directorial debut do bring their own palpable rewards; his movie is persuasively acted and intermittently quite affecting. Those who admire any movie that can make sophisticates sniffle will cherish *Ordinary People*. In a sense, it's a perfect meeting of subject and audience, proclaiming the self-evident proposition that upwardly mobile folks have feelings too. And it comes to embody all the values which on the surface it seems to rebuke—it's a cautious, genteel movie about the importance of giving vent to those messy emotions lurking inside all of us.

The screenplay by Alvin Sargent is virtually a transcription of the Judith Guest novel on which it's based. The Jarrett family, respectable bulwark of the affluent community of Lake Forest, Illinois, is a trio united solely by tact and mutual estrangement. During the previous year, elder son Buck had drowned in a boating accident, and thereafter his brother Conrad (Timothy Hutton) spent months in a psychiatric hospital recuperating after a suicide attempt. Since things like this aren't supposed to happen to such a nice, well-ordered family, the surviving members have taken an unspoken pledge to pretend that it was all just a nightmare—now dispelled by the light of day. Never mind that Conrad is an imploding wreck, mother Beth (Mary Tyler Moore) a beaming zombie, and father Calvin (Donald Sutherland) bewildered and hapless in the face of it all. Thanks to his father's gentle prodding and his own embryonic instincts for self-preservation, Conrad seeks the aid of a hyper-*haimische* therapist (Judd Hirsch), who slowly teaches him that human susceptibility to pain and commitment can be disregarded only at grievous cost.

ONE OF REDFORD'S MOST celebrated acting roles was as the man who played the paradigmatic thwarted Wasp, both attracted and nonplussed by the uninhibited candor of Barbra Streisand in *The Way We Were*. It's almost painfully apt that this man should choose to direct a film about a Jew who exorcises a family's residue of all-American guilt and self-loathing. Without a trace of irony, in its understated fashion, *Ordinary People* forges its dogged emotional truths out of some facile ethnic truisms. The facade of the Jarrett manse is so white it almost blinds you; inside, the floors have a mirror finish and there are napkin rings on the dining room table. All this is supposed to spell emotional sterility. And Dr. Berger's psychiatric lair is as dark and unkempt as the good doctor himself: Here life (not to mention bacteria) flourishes. At home the Jarretts insulate themselves between bruised silences. Not Berger—he's positively deafening, perennially challenging, cajoling, threatening, anything for a gut response from his repressed charge.

Since Mommy's the one who sets that table and makes those floors sparkle, she's bound to turn out to be the prime perpetrator—and victim—of all that stifling civility. *Ordinary People* obviously thinks it's playing fair with its female protagonist; how else to explain all those closeups of Mary Tyler Moore's anxious eyes and sob-strangled throat? Yet when at one point Beth Jarrett starts accusing her son and husband of ganging up on her, I was ready to agree—and throw in the director and screenwriter too. The film is forever indicting her for her refusal to confront the family's anguish and face her own emotions; she gets particularly bad marks for mistrusting the intrusion of the kid's shrink into their problems. (Apart from everything else, Beth is seen to be slightly queasy over the fact that Berger isn't one of their kind, ethnically or otherwise.) At least two protracted scenes are devoted to showing us that Beth is so emotionally

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stunted that she shrinks from her son's very touch.

All of this might be dramatically defensible, albeit redundant, if *Ordinary People* wasn't also intent on proving that Beth doesn't really possess any significant feelings, buried or otherwise. From the very first glimpse of her—giggling delightedly at a community theater performance of a silly sex farce at which honest, sane Calvin yawns unobtrusively—Beth is limned as a shallow conformist at best. Soon thereafter, a quick image of her viciously stuffing her son's uneaten breakfast down the garbage disposal establishes her indelibly as Craig's Wife incarnate. Given its commitment to the gospel of communication, I suppose it's only logical that *Ordinary People* should so carefully verbalize what its images have already made apparent. Hence Conrad blurts out to his shrink and us that the real reason Mom never forgave his suicide attempt was that he made such a mess of the bathroom (an uncontradicted claim that turns her into precisely the monster this movie "compassionately" keeps denying she is). Meanwhile, Calvin, for the sake of honesty and in the hope of rebuilding their marriage, looks up at her tearfully and enumerates every single one of her flaws. Clearly Calvin has learned much from his brief exposure to Dr. Berger. After one short visit, he's turned into an honest-to-goodness kvetch.

One of the reasons *Ordinary People* becomes such a stifling movie is Redford's penchant for meticulousness. The story flags as Redford keeps pausing for just one more epiphany. Taken individually, many of these moments are so cannily orchestrated as to be irresistible. I doubt that many people will be able to check the tears when, after finally expelling his long-pent-up terror and anger, Conrad is enveloped in a bear hug by Dr. Berger and gets with it a pledge of unshakable friendship. Young Hutton throughout gives remarkable shadings to a role that could easily have veered into monotony or self-indulgence; Donald Sutherland does his utmost to soften his werewolf-with-a-hangover mien into the visage of a benign paterfamilias. Much has been made of the supposedly heretical casting of Mary Tyler Moore as a self-centered snow princess, but actually the match is perversely perfect—after all, Beth is just the sterile underside of that chipper sprite Moore played with such vivacity on TV for so many years. There's also some really ingratiating work from a neophyte actress named Elizabeth McGovern, as Conrad's nonchalantly sage girlfriend. All of their efforts, and Redford's, make of *Ordinary People* the most that a strained semblance of good taste can afford, and no more.

THE PREMISE OF *Ordinary People* is that typical humans can harbor fearsome demons, but *The Elephant Man* conveys the notion that freakishly extraordinary people can have typical human feelings. The successful Broadway play concerns John Merrick, a gruesomely deformed man of the last century rescued by a Dr. Treves from a life of sideshow exploitation; its theme is that what differentiates a noble from a subhuman spirit is the way he is treated by others. This sermon on tolerance for the outcasts of society and/or biology has stirred audiences, partially by flattering them with the implication that *they* would never be so callous toward such a superior human being, however grotesque. (In the stage version of this story, the actor playing Merrick contorts his body but wears no disfiguring makeup.) Bernard Pomerance's play at least has a self-contained point of view and a coherent approach, whereas David Lynch's film (inspired by the same real-life figure but based on different source material) never seems to make up its mind just what to make of the story. Much of the time it, like the play, is a kind of gallows-humor *Pygmalion,* as Merrick (played here by John Hurt) gradually reveals the unexpected soul of a cultured gentleman at the prodding of Treves (Anthony Hopkins) and the doctor's distinguished friends and associates.

Perhaps feeling that this sort of chamber drama is too confining for the large screen, Lynch chooses to interrupt it with surrealistic flashbacks of Merrick's mother being trampled by an elephant (irrelevant, since this could have had nothing to do with what's been explained as a congenital deformity), and insistent montages of grimy smokestacks and grinding machinery, implying that the Industrial Revolution must also be somehow to blame. Lynch's gears shift swiftly into lurid melodrama when Merrick's idyll in his medical haven is shattered by the return of his sadistic former keeper (Freddie Jones, all grimaces and drooling), who spirits him back to the sideshow. At this point *The Elephant Man* becomes a tormented-monster movie with studio-bound black-and-white visual trappings straight out of a Universal grade-B horror flick from the thirties. It's in this section particularly that Lynch injects some rather questionable broadsides against the lower orders. The rabble tormenting the Elephant Man is a mass of unregenerate sadists—a toothless, scabby lot, as opposed to their unfailingly humane, if discomfited, social betters. (The camera so leers at the sight of Merrick in agony during these episodes that you begin to wonder if the real fiends aren't actually hard at work behind the viewfinder.)

Lynch also has failed to solve the problem of how to render Merrick visually in a way that would be graphic and yet not merely sensational in the usual monster-movie mode. For the first half-hour Merrick is photographed like Jesus in old Biblical movies—as a blur in the shadows just out of camera frame. Once we get to view him straight on, Merrick's disfigured head is such an obvious tribute to the makeup artist's craft, even in black-and-white, that the sight of John Hurt gallumping across the screen encased in all that plaster and papier-mâché becomes progressively more comic. Hurt's face is so immobilized by this applied grotesquerie that it's almost pointless to discuss his performance; Hopkins does a quieter variation on the simmering, teeth-clenching turn he patented on stage in *Equus*. The

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Elephant Man's brief, intense rapport with the actress Mrs. Kendall gave the play its emotional center. Here this interlude has been truncated, and considering Anne Bancroft's grisly Greer Garson impersonation in the part, I suppose it was all for the best. Fortunately, John Gielgud and Wendy Hiller are also present to bring their usual serene professionalism to subordinate roles as Hopkins's colleagues.

Lynch's idiosyncratic mix of styles gives the film a minute-to-minute liveliness, if only because he keeps you wondering (and at times dreading) what he's going to come up with next. Yet all this tends to undercut the one consistent strain evident throughout the movie—the desire to make the audience empathize with Merrick's monumental travails and fleeting triumphs. The director's distracting virtuosity keeps the situation he's presumably trying to illuminate at a discreet emotional distance. Judging by *The Elephant Man* and Woody Allen's newest, this seems to be the season for terminally contradictory tragicomedies in black and white. *Stardust Memories* is another story, to be plowed through next issue. ❏

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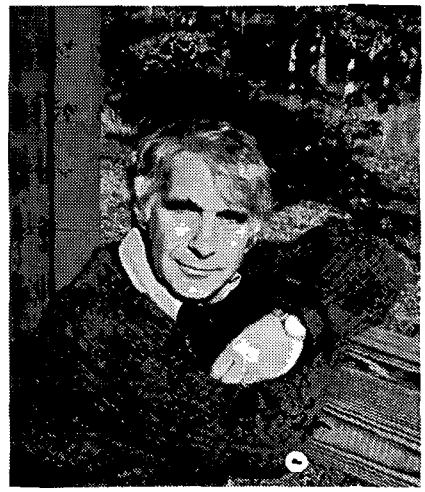

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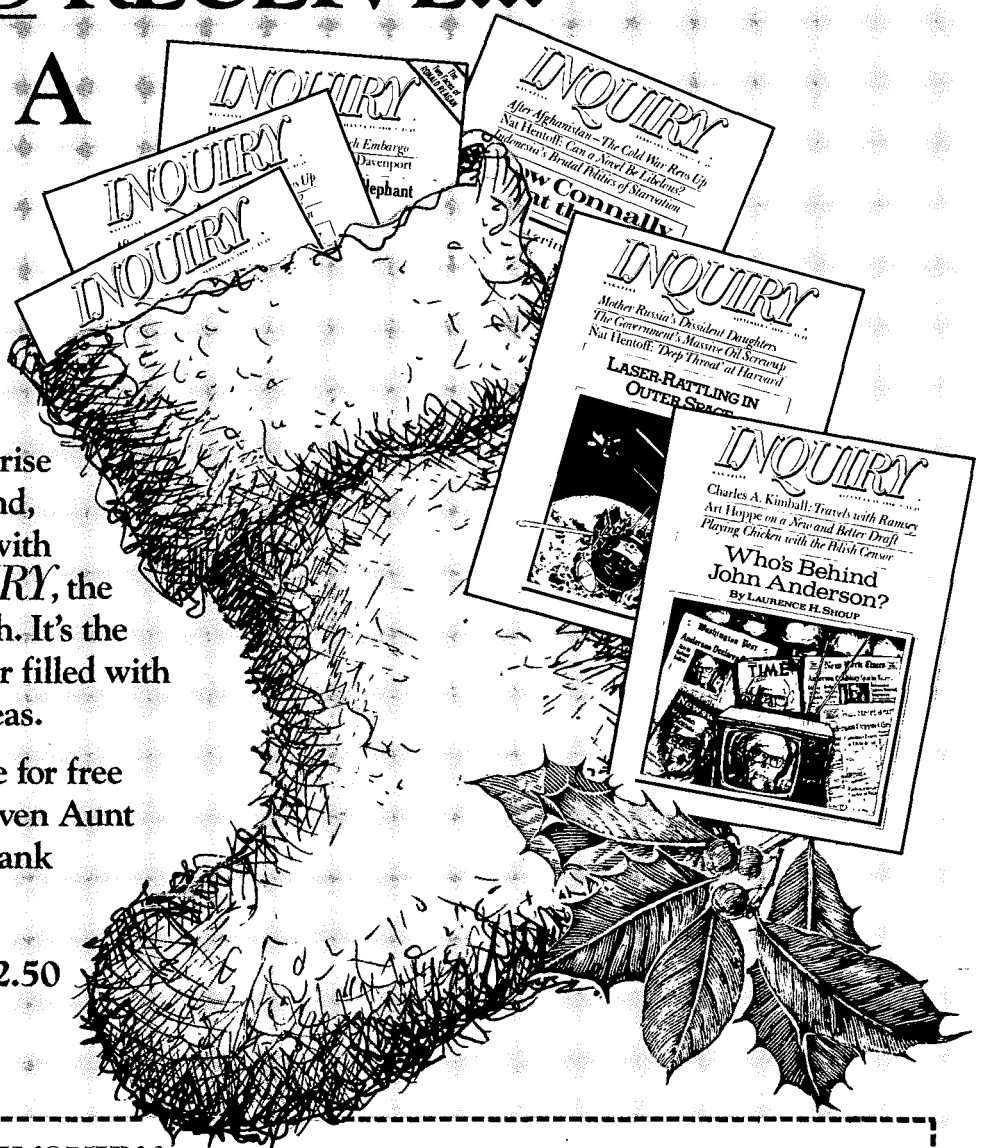

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